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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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SUBTITLE II. REGULATION OF INSURANCE INDUSTRY GENERALLY.

Chapter 11A. Insurance Producers.

§ 31-1131.05b. Pre-licensing education for title insurers.

(a) The Commissioner may require, by rule, that an individual, not exempt under subsections (b), (c), or (d) of this section, complete a pre-licensing course of study before:

(1) Taking the examination required by § 31-1131.05; or

(2) Applying for an insurance producer license.

(b) An attorney who holds a license to practice law in any state or the District of Columbia shall be exempt from pre-licensing course of study requirements and examination requirements.

(c) An title agent insurance applicant who provides certification from a title insurance insurer that the agent has had signing authority on policies or title insurance commitments for the past 3 years relating to properties located within the District of Columbia shall be exempt from the pre-licensing course of study requirements and the examination requirements; provided, that the certification is submitted to the Commissioner within one year after September 24, 2010.

(d) A full-time employee of a title insurer shall be exempt from the pre-licensing course of study requirement.

(e) The District of Columbia Land Title Association, or other organization designated by the Commissioner by rule, shall provide to each individual whose duties will include selling, soliciting, or negotiating a title insurer's limited line of title insurance in the District a program of instruction that is approved by the Commissioner. The insurer shall provide the program of instruction to the individual prior to the individual's application for licensure as a limited lines insurance producer.

(Mar. 27, 2003, D.C. Law 4-264, § 5b, as added Sept. 24, 2010, D.C. Law 18-223, § 2166(3), 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 6(a), 60 DCR 12304.)

Section references. — This section is referenced in § 31-1131.05.

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 substituted "may" for "shall" in the introductory language of (a).

Legislative history of Law 20-40. — Law 20-40, the "Saving D.C. Homes from Foreclosure Clarification and Title Insurance Clarification Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-268. The Bill was adopted on first and second readings on June 26, 2013 and July 10, 2013, respectively. Signed by the Mayor on Aug. 20, 2013, it was assigned Act No. 20-156 and transmitted to Congress for its review. D.C. Law 20-40 became effective on Nov. 5, 2013.

§ 31-1131.06. Application for resident insurance producer license.

(a) An individual applying for a resident insurance producer license shall make application to the Commissioner on the Uniform Individual Application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Commissioner shall find that the individual:

(1) Is at least 18 years of age;

(2) Has not committed any act that is a ground for denial, suspension, or revocation set forth in § 31-1131.12.

(3) If required by the Commissioner, has completed a pre-licensing course of study for the lines of authority for which the person has applied;

(4) Has paid the fees prescribed by the Commissioner; and

(5) Unless exempt under § 31-1131.09, has successfully passed the examinations for the lines of authority for which the person has applied.

(b) A business entity applying for a resident business entity producer license shall make application to the Commissioner on the Uniform Business Entity Application. Before approving the application, the Commissioner shall find that the business entity has:

(1) Paid the fees prescribed by the Commissioner; and

(2) Designated a licensed individual producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the District.

(c) The Commissioner may require any documents reasonably necessary or appropriate to verify the information contained in an application.

(d) Repealed.

(Mar. 27, 2003, D.C. Law 14-264, § 6, 50 DCR 260; May 13, 2008, D.C. Law 17-155, § 2(e), 55 DCR 3683; Mar. 25, 2009, D.C. Law 17-353, § 234, 56 DCR 1117; Sept. 24, 2010, D.C. Law 18-223, § 2166(c), 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 6(b), 60 DCR 12304.)

Section references. — This section is referenced in § 31-1131.07, § 31-1131.08, § 31-1131.08a, and § 31-5051.02.

Effect of amendments.

The 2013 amendment by D.C. Law 20-40 deleted "provided, that if an applicant for a title insurance producer license has been convicted of any such act and 10 years have elapsed since the individual's conviction, and a title insurer submits written verification that the person has had authority from the title insurer to issue title insurance policies or commitments related to real or personal property within the District of Columbia for a period of not less than 3 years prior to the application for license, such act or conviction may be considered not to apply by the Commissioner" from the end of (a)(2).

Legislative history of Law 20-40. — See note to § 31-1131.05b.

§ 31-1131.07. License.

(a) Unless denied licensure under § 31-1131.12, persons who have met the requirements of §§ 31-1131.05 and 31-1131.06 shall be issued a resident insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of insurance permitted under law or regulations:

(1) Life, consisting of insurance coverage on human lives, including benefits of endowment and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;

(2) Accident and health or sickness, consisting of insurance coverage for sickness, bodily injury, or accidental death, including benefits for disability income;

(3) "Property, consisting of insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty, consisting of insurance coverage against legal liability,

including that for death, injury, or disability, or damage to real or personal property;

(5) Variable life and variable annuity, consisting of insurance coverage provided under variable life insurance contracts and variable annuities;

(6) Personal lines, consisting of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(7) Repealed;

(8) Bail bonds, consisting of insuring or guaranteeing that a person will attend court when required, or will obey the orders or judgment of a court, as a condition to the release of the person from confinement;

(9) Surplus lines, consisting of insurance coverage provided pursuant to § 31-2502.40(a) by a company not otherwise authorized to do business in the District; and

(10) Any of the following limited lines of insurance:

(A) Car rental;

(B) Credit;

(C) Crop;

(C-i) Portable electronics;

(D) Surety;

(E) Travel;

(F) A limited line of insurance established by the Commissioner by rule; and

(G) A line of insurance the Commissioner recognizes as a limited line of insurance for the purposes of complying with § 31-1131.08(e).

(a-1) A person shall not be issued a license in the bail bonds or surplus lines line of insurance unless the person holds, or is simultaneously issued, a license in the property or casualty line of insurance.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the lines of authority, the expiration date, and any other information the Commissioner considers useful or necessary.

(f) Repealed.

(g) To assist in the performance of the Commissioner's duties, the Commissioner may contract with a third party, including the NAIC, or its affiliates or subsidiaries, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Commissioner may consider appropriate.

(Mar. 27, 2003, D.C. Law 14-264, § 7, 50 DCR 260; May 13, 2008, D.C. Law 17-155, § 2(g), 55 DCR 3683; May 1, 2013, D.C. Law 19-306, § 201, 60 DCR 2746.)

Cross references. — Portable electronics insurance, § 31-5051.01 et seq.

Section references. — This section is referenced in § 31-1131.02 and § 31-1131.08.

Effect of amendments.

The 2013 amendment by D.C. Law 19-306 added (a)(10)(C-i).

Legislative history of Law 19-306. — Law

19-306, the "Portable Electronics Insurance Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-986. The Bill was adopted on first and second readings on December 4, 2012, and December 18, 2012, respectively. Signed by the Mayor on February 5, 2013, it was assigned Act No. 19-673 and transmitted to Congress for its review. D.C. Law 19-306 became effective on May 1, 2013.

§ 31-1131.07b. Continuing education.

All individual title insurance producers shall fulfill the following continuing education requirements:

(1) Eight hours biennially for District of Columbia barred attorneys in courses specific to District of Columbia real estate laws and related regulations, and any other continuing education courses approved by the Commissioner;

(2) Sixteen hours biennially for resident title insurance producers in instruction specific to District of Columbia real estate laws and related regulations, and continuing education courses approved by the Commissioner of which not more than 8 hours may be completed through on-line or video-based courses; or

(3) Four hours of instruction biennially for nonresident title insurance producers in instruction specific to District of Columbia real estate laws and related regulations.

(Mar. 27, 2003, D.C. Law 14-264, § 7b, as added May 13, 2008, D.C. Law 17-155, § 2(h), 55 DCR 3683; Sept. 24, 2010, D.C. Law 18-223, § 2166(d), 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 6(c), 60 DCR 12304.)

Effect of amendments. The 2013 amendment by D.C. Law 20-40 rewrote this section.

Legislative history of Law 20-40. — See note to § 31-1131.05b.

§ 31-1131.08. Nonresident licensing.

(a) A person may request a nonresident license if the person is licensed as a resident insurance producer in another state.

(a-1) A person requesting a nonresident insurance producer license shall make his or her request on a form, or through such means, prescribed by the Commissioner.

(a-2) Unless denied licensure under § 31-1131.12 or granted a resident insurance producer license by meeting the requirements of §§ 31-1131.05 and 31-1131.06, a nonresident person shall receive a nonresident insurance producer license if:

(1) The person is currently licensed as a resident and in good standing in his or her home state;

(2) The person has submitted the proper request for a nonresident insurance producer license and has paid the fees as prescribed by the Commissioner; and

(3) The person has submitted or transmitted to the Commissioner a completed NAIC Uniform Application or the application for licensure that the person submitted to his or her home state.

(b) The Commissioner may verify the insurance producer's licensing status

through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

(c) Repealed.

(d) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license under subsection (a) of this section. Except as provided in subsection (a) of this section, this section shall not amend or supersede any provision of §§ 31-2502.39 and 31-2502.40.

(e) Notwithstanding any other provision of this chapter, a person licensed as a limited line insurance producer in his or her home state shall receive a nonresident limited lines insurance producer license under subsection (a) of this section granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, the term "limited line insurance" means any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines under § 31-1131.07(a)(1) through (6).

(f) An applicant may qualify for a license under this chapter as a nonresident only if the applicant holds an equivalent license in the applicant's home state. A license issued to a nonresident of the District shall grant the same rights and privileges as a resident licensee.

(g) Repealed.

(h) Any license and appointment issued to a nonresident pursuant to this section shall be terminated at any time that the nonresident's equivalent authority in his or her home state is terminated, suspended, or revoked.

(Mar. 27, 2003, D.C. Law 14-264, § 8, 50 DCR 260; May 13, 2008, D.C. Law 17-155, § 2(i), 55 DCR 3683; Sept. 24, 2010, D.C. Law 18-223, § 2166(e), 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 6(d), 60 DCR 12304.)

Section references. — This section is referenced in § 31-1131.07, § 31-1131.16, and § 31-5051.02.

Effect of amendments.

The 2013 amendment by D.C. Law 20-40 repealed (g) which read: "A nonresident title insurance producer shall have a registered agent in the District of Columbia at the time of application for a title insurance producer license and shall maintain a registered agent in the District of Columbia as a condition of licensing under this section"; and added (h).

Legislative history of Law 20-40. — See note to § 31-1131.05b.

CHAPTER 22A. UNFAIR INSURANCE TRADE PRACTICES.

Sec.
31-2231.11. Unfair discrimination.

§ 31-2231.11. Unfair discrimination.

(a) No person shall commit or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for a life insurance policy or contract, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the policy or contract.

(b) No person shall commit or permit any unfair discrimination between

individuals of the same class and of essentially the same hazard in the amount of premium, fees, or rates charged for a policy or contract of accident or health insurance; in the benefits payable under a policy or contract of accident or health insurance; in any of the terms or conditions of the policy or contract of accident or health insurance; or in any other manner. This section shall not prohibit a fee or charge for insurance premium payment plans, regardless of the number of installments involved.

(b-1) For the purposes of subsections (a) and (b) of this section, no person shall inquire, directly or indirectly, as to whether an insured or applicant is, or has been, the victim of an intrafamily offense, sexual assault, dating violence, or stalking, or make use of information as to an insured or applicant's status as a victim of an intrafamily offense, sexual assault, dating violence, or stalking; provided, that this subsection shall not prohibit a person from asking about a medical condition or from using medical information to underwrite or to carry out its duties under a policy, even if the medical information is related to a medical condition that the person knows or has reason to know is related to an intrafamily offense, sexual assault, dating violence, or stalking, to the extent otherwise permitted under this chapter or applicable law. For purposes of this subsection, the term "intrafamily offense" shall have the same meaning as provided in § 16-1001(8).

(c) No person shall refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of marital status, race, color, personal appearance, sexual orientation, gender identity or expression, matriculation, political affiliation, or an individual's status as a victim of an intrafamily offense, sexual assault, dating violence, or stalking. Nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits or prohibit or limit the operation of fraternal benefit societies. For the purposes of this subsection, the term "matriculation" shall have the same meaning as in § 2-1401.02(18).

(d) No person shall terminate or modify coverage, or refuse to issue or refuse to renew, a property and casualty policy or a life, health, or annuity policy, solely because the applicant or insured, or an employee of either, is mentally or physically impaired. A termination, modification, or refusal shall be based on sound actuarial principles or related to actual or reasonably anticipated experience. This subsection shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of an insurance policy or contract.

(e) No person shall refuse to insure an individual solely because another insurer has refused to write a policy or has cancelled or has refused to renew an existing policy in which the individual was named an insured. This subsection shall not prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance.

(Apr. 3, 2001, D.C. Law 13-265, § 111, 48 DCR 1225; Oct. 3, 2001, D.C. Law 14-28, § 2702(a), 48 DCR 6981; June 25, 2008, D.C. Law 17-177, § 16(b), 55

DCR 3696; Apr. 8, 2011, D.C. Law 18-360, § 202(a), 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 86, 59 DCR 6190.)

Section references. — This section is referenced in § 31-2231.12 and § 31-2231.24.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "accident or health insurance" for the third occurrence of "health insurance" in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

SUBTITLE III. FIRE, CASUALTY, MARINE, MOTOR VEHICLE AND RELATED INSURANCE.

CHAPTER 24. COMPULSORY/NO-FAULT MOTOR VEHICLE INSURANCE.

§ 31-2402. Definitions.

As used in this chapter:

(1) The term "accident" means an untoward and unforeseen occurrence arising out of the maintenance or use of:

(A) A motor vehicle;

(B) A vehicle operated or designed for operation upon a highway by power other than muscular power with respect only to any pedestrian or any occupant of that vehicle other than the owner or operator of that vehicle; or

(C) Any other vehicle covered by the insurance coverages required by § 31-2406.

(2) Repealed.

(3) The term "beneficiary" means a person who is named in a policy of personal injury protection insurance as a person who is entitled to the benefits of personal injury protection insurance.

(4) The term "Department" means the Department of Motor Vehicles established pursuant to § 50-901.

(5) The term "Director" means the Director of the Department or the Director's designee.

(6) The term "District" means the District of Columbia.

(7) The term "highway" means the entire width between the boundary lines of every publicly maintained way, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.

(8) The term "individual" means a natural person.

(9) The term "injury" means bodily harm to an individual that is sus-

tained in an accident, and any illness, disease, or death resulting from that bodily harm.

(9A) "Insurance Identification Card" means a document issued by an insurer as proof of insurance for a motor vehicle that lists the name of the insurer, the policy number, the name of the insured, the period of coverage for the insurance, and the make, model, and vehicle identification number.

(10) The term "insured" means a named insured or any other person insured in an insurance policy, with the exception of those persons specifically excluded by endorsement on the insurance policy.

(11) The term "insurer" means any person, company, or professional association licensed in the District of Columbia that provides motor vehicle liability protection or any self-insurer.

(12) The term "license" means a license or permit to operate a motor vehicle issued under the laws of the District.

The term "license" includes a driver's license; a temporary or learner's permit; the privilege of any person to drive a motor vehicle whether or not such person holds a valid license issued by the District government; the privilege conferred upon a nonresident by the laws of the District pertaining to the operation by a nonresident of a motor vehicle; or any other license issued under authority delegated to the Director.

(13) The term "loss" means economic detriment incurred as a result of an accident resulting in injury, consisting of and limited to medical and rehabilitation expenses, work loss inclusive of replacement services loss, and death benefits. The term "loss" does not include noneconomic loss.

(14) The term "maintenance or use" with respect to a motor vehicle means any activity involving or related to the operation of or transportation by a motor vehicle, including occupying, entering into, alighting from, repairing, or servicing.

The term "maintenance or use" does not include conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct is off the business premises or unless it is conduct in the course of loading or unloading a motor vehicle.

(15) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's designee.

(16) The term "motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and is designed to travel on no more than 3 wheels in contact with the ground. The term "motorcycle" does not include a 3-wheeled motor vehicle with a cab and windshield tractor, a motor-driven cycle, or a motorized bicycle unless operated at speeds in excess of 30 miles per hour.

(17) The term "motor vehicle" means a vehicle propelled by an internal-combustion engine, electricity, or steam. The term "motor vehicle" shall not include a traction engine, road roller, vehicle propelled only upon rails or tracks, personal assistive mobility device, as defined by § 50-2201.02(12), a battery-operated wheelchair when operated by a person with a disability, or a motorized bicycle.

(18) The term "named insured" means the person identified in the declaration of the insurance policy.

(19) The term "noneconomic loss" means pain, suffering, inconvenience, physical or mental impairment, and other nonpecuniary damage recoverable under the tort law applicable to injury arising out of the maintenance or use of a motor vehicle.

(20) The term "operator" means a person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a motor vehicle being pushed or towed by a motor vehicle.

(21) The term "owner" means any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or other authority or other entity having the property or title to a vehicle or bicycle used or operated in the District; any registrant of a vehicle used or operated in the District; or any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or authority or other entity in the business of renting or leasing vehicles or bicycles to be used or operated in the District.

(22) The term "passenger vehicle" means any vehicle other than one registered as a commercial vehicle or for livery, rental, sightseeing, or taxi purposes.

(23) The term "person" means any natural person, firm, copartnership, association, government, government agency, or instrumentality.

(24) The term "personal injury protection" means the benefits provided pursuant to § 31-2404.

(25) The term "registration certificate" means a certificate or its duplicate issued by the Director to a registrant, containing any or all of the information that appeared on his or her application for registration, the number of the owner's identification tags issued to the registrant for use on the vehicle described on the card and other information as the Director may determine, or a registration certificate or its duplicate, issued by the Director to a new car dealer, or used car dealer, containing any or all of the information that appeared on his or her application for dealer's identification tags, the number of the dealer's identification tags issued to the new car dealer or used car dealer for use as provided by 18 DCMR and any other information the Director may require.

(26) The term "self-insurer" means any person having received a certificate of self-insurance issued by the Mayor pursuant to § 50-1301.79.

(27) The term "stacking" means a legal procedure wherein the limits of liability applicable to a single motor vehicle liability policy of insurance are added to the limits of liability of all motor vehicles which may be insured by 1 motor vehicle liability policy of insurance involved in 1 accident.

(28) The term "state" means any state, territory, or possession of the United States or any possession or territory of Canada. The term "state" includes the District of Columbia.

(29) The term "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking or the Commissioner's designee.

(30) The term "survivor" means an individual identified in the wrongful death statute of the District, as one entitled to receive benefits by reason of the death of a victim.

(31) The term "taxicab" means any public vehicle for hire having a seating capacity of less than 8 passengers, exclusive of the driver, except ambulances, funeral cars, vehicles used exclusively for sightseeing purposes, or vehicles for which the rate is fixed solely by the hour.

(32) The term "trailer" means a vehicle with or without motor power intended to be used for carrying property or persons and drawn or intended to be drawn by a motor vehicle, whether such vehicle without motor power carries the weight of the property or persons wholly on its own structure or whether a part of such weight rests upon or is carried by a motor vehicle.

(32A) The term "underinsured motor vehicle" means an insured motor vehicle where the limits on 3rd-party personal liability or property damage coverage under the insurance required by § 31-2406 are insufficient to pay the loss up to the limit of uninsured motor vehicle coverage as requested by the insured.

(33) The term "vehicle" means a motor vehicle; a trailer; or an appliance moved over a highway on wheels or traction tread including draft animals and beasts of burden.

(34) The terms "victim" and "motor vehicle accident victim" mean an individual who sustains injury as a result of an accident.

(Sept. 18, 1982, D.C. Law 4-155, § 3, 29 DCR 3491; Mar. 15, 1985, D.C. Law 5-176, § 2, 32 DCR 748; Mar. 4, 1986, D.C. Law 6-96, § 2(a), 32 DCR 7245; May 21, 1997, D.C. Law 11-268, § 10(v), 44 DCR 1730; Mar. 26, 1999, D.C. Law 12-184, § 2, 45 DCR 7796; Apr. 27, 2001, D.C. Law 13-289, § 101(a), 48 DCR 2057; Mar. 25, 2003, D.C. Law 14-235, § 2, 49 DCR 9788; Mar. 13, 2004, D.C. Law 15-105, § 90(a), 51 DCR 881; June 11, 2004, D.C. Law 15-166,§ 4(n), 51 DCR 2817; June 8, 2006, D.C. Law 16-117, § 201(a), 53 DCR 2548; Mar. 6, 2007, D.C. Law 16-224, § 201, 53 DCR 10225; Apr. 27, 2013, D.C. Law 19-290, § 2(a), 60 DCR 2343.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-290 rewrote (16) and (17).

Legislative history of Law 19-290. — Law 19-290, the "Motorized Bicycle Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-995. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-658 and transmitted to Congress for its review. D.C. Law 19-290 became effective on April 27, 2013.

§ 31-2403. Required insurance.

(a) *Residents of District.* — Each owner of a motor vehicle which is required to be registered or for which a reciprocity sticker is required in the District shall maintain insurance required by § 31-2406. This insurance shall be in effect continuously during the motor vehicle's period of registration or reciprocity.

(b) *Nonresidents of District owning or operating motor vehicles in District.* —

(1) A person who is not a resident of the District who owns a motor vehicle shall not operate the motor vehicle, or permit the motor vehicle to be operated in the District, unless insurance required by § 31-2406 is provided and maintained during the time that the motor vehicle is present in the District.

(2) The Director shall require adequate proof of insurance as required by this section for nonresident owners or operators prior to the return of motor vehicles immobilized by the Department to the nonresident owners or operators.

(c) *Form.* —

(1) Any policy of motor vehicle insurance which is represented or sold as providing, pursuant to this chapter or pursuant to the coverage required by Chapter 13 of Title 50, security covering a motor vehicle or required insurance shall be deemed to provide insurance for payment of the benefits required by this chapter.

(2) The insurance required by this section may be provided under a valid policy of insurance issued by an insurer authorized to transact business in the District or by any other method approved by the Commissioner.

(d) *Administration of requirement.* —

(1)(A) Every person applying to register a motor vehicle in the District or applying for a reciprocity sticker for a motor vehicle in the District shall certify to the Director, on a form supplied by the Director, that the insurance required by this chapter is in effect with respect to that motor vehicle.

(B) The Director may request an insurer to verify any information provided pursuant to subparagraph (A) of this paragraph. The insurer shall accurately respond to the Director's request within 10 business days.

(C) The Director may request that the person who has certified to the Director pursuant to subparagraph (A) of this paragraph submit proof, within 15 business days, that the required insurance is in effect.

(2)(A) The Director shall suspend the reciprocity sticker or vehicle registration certificate issued to the owner of a motor vehicle if the required insurance is not in effect with respect to the motor vehicle. The suspension shall take effect 30 days after service by regular mail of a notice of proposed suspension, unless the person provides proof that he or she has an effective motor vehicle insurance policy and has paid all applicable fines. The person shall also be advised that the fine established pursuant to § 31-2413(b)(2) shall be imposed unless, within the 30 day period, the person proves that the required insurance was maintained during the registration or reciprocity period. The suspension shall remain in effect until the person appears at the Department with proof of an effective motor vehicle insurance policy and pays a reinstatement fee and the applicable fine.

(i)-(iii) Repealed.

(iv) If a person's registration certificate has been suspended as provided for in this subsection, the registration certificate shall not be transferred and the motor vehicle with respect to which the registration certificate was issued shall not be registered in any other name until the Director is satisfied that the transfer of the registration certificate is in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(v) Nothing in this section shall affect the rights of any conditional vendor, chattel mortgagee or lessor of the motor vehicle.

(vi) The Director shall suspend or revoke the registration certificate of any motor vehicle transferred in violation of the provisions of this section.

(vii) Decisions of the Director shall be subject to review by the Mayor. Orders and decisions of the board of review shall be appealable pursuant to § 2-510. For the purposes of this sub-subparagraph, the phrase "review by the Mayor" shall mean a review by any board of review established by the Mayor pursuant to this chapter to review the order or act of any agent of the Mayor.

(B) A motor vehicle with respect to which the registration certificate or reciprocity sticker is suspended under this paragraph may be immobilized by the Department or the Metropolitan Police Department until the insurance required by this section is in effect.

(C) The registration certificate or reciprocity sticker and the tags of any motor vehicle, the registration or reciprocity of which is suspended under this paragraph, shall be recovered whenever possible.

(3)(A) The Director shall require all insurers authorized to sell motor vehicle insurance in the District to furnish to the Department notice of motor vehicle insurance cancellations within 30 days after the effective date of cancellation. Upon receipt of a notice of cancellation concerning a motor vehicle insurance policy on a vehicle registered in the District, the Director shall notify the person in whose name the vehicle is registered that the Director will revoke or cancel the registration of the vehicle pursuant to law.

(B) The insurers shall provide information and cooperate in prosecutions under § 31-2413.

(C) The insurers shall cooperate with, assist, and advise the Director with respect to the detection of persons who have applied for or obtained registration certificate or reciprocity stickers for motor vehicles in the District without first obtaining the insurance, or who cancel or otherwise terminate insurance subsequent to the issuance of a registration certificate or reciprocity stickers.

(4)(A) Repealed.

(B) Payments from the Administration Fund shall be made for the benefit of the Commissioner and for the benefit of the Department but no payments shall be made for costs incurred by either the Department or the Commissioner prior to September 18, 1982, or which would probably have been incurred if this chapter had not been enacted.

(5)(A) On the first day of each month, an insurer authorized to sell motor vehicle insurance in the District shall furnish to the Director the following records pertaining to each vehicle insured by it in the District:

(i) The owner's full name and address;

(ii) The insurance policy number or binder number;

(iii) The commencement date of the motor vehicle insurance policy;

(iv) The expiration or termination date of the motor vehicle insurance policy;

(v) The operator's license number, if known;

(vi) The corresponding vehicle identification number, if known; and

(vii) Other relevant information the Director may require.

(B) The records required by this paragraph shall be submitted or transmitted in electronic files and in compliance with procedures established by the Department.

(C) In lieu of requiring insurers to satisfy the requirements of subparagraph (A) of this paragraph, the Director may allow insurers to verify insurance through an online insurance verification system.

(Sept. 18, 1982, D.C. Law 4-155, § 4, 29 DCR 3491; Mar. 14, 1985, D.C. Law 5-159, § 13(a), 32 DCR 30; Mar. 4, 1986, D.C. Law 6-96, § 2(b), 32 DCR 7245; May 21, 1997, D.C. Law 11-268, § 10(v), 44 DCR 1730; Apr. 27, 2001, D.C. Law 13-289, § 101(b), 48 DCR 2057; Oct. 23, 2012, D.C. Law 19-186, § 2, 59 DCR 10147.)

Section references. — This section is referenced in § 31-2413.

Effect of amendments.

The 2012 amendment by D.C. Law 19-186 added (d)(5).

Legislative history of Law 19-186. — Law 19-186, the "Compulsory/No Fault Motor Vehicle Insurance Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-194. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 6, 2012, it was assigned Act No. 19-439 and transmitted to Congress for its review. D.C. Law 19-186 became effective on Oct. 23, 2012.

§ 31-2403.01. Pre-litigation discovery of insurance.

(a) After a claimant makes a written claim for compensation or damages concerning a vehicle accident, and provides the documents described in subsection (b) or (c) of this section to an insurer, the claimant shall be entitled to obtain from the insurer documentation of the applicable limits of coverage in any insurance agreement under which the insurer may be liable to:

(1) Satisfy all or part of the claim; or

(2) Indemnify or reimburse for payments made to satisfy the claim.

(b) For a claimant to obtain the documentation described in subsection (a) of this section from the insurer, the claimant shall provide the following, in writing, to the insurer:

(1) The date of the vehicle accident;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of the vehicle accident report, if any;

(4) The insurer's claim number, if available;

(5) The claimant's health care bills and documentation of the claimant's loss of income, if any, resulting from the vehicle accident; and

(6) The records of health care treatment for the claimant's injuries caused by the vehicle accident.

(c) If the claim is brought by the estate of an individual or a beneficiary of the individual, whose death resulted from a vehicle accident, the insurer must provide the documentation described in subsection (a) of this section if the claimant provides the following, in writing, to the insurer:

(1) The date of the vehicle accident;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of the vehicle accident report, if any;

(4) The insurer's claim number, if available;

(5) A copy of the decedent's death certificate issued in the District of Columbia or another jurisdiction;

(6) A copy of the letters of administration issued to appoint the personal

representative of the decedent's estate in the District of Columbia or a substantially similar document issued by another jurisdiction;

(7) The name of each beneficiary of the decedent, if known;

(8) The relationship to the decedent of each known beneficiary of the decedent;

(9) The health care bills for health care treatment, if any, of the decedent resulting from the vehicle accident; and

(10) The records of health care treatment for injuries to the decedent caused by the vehicle accident.

(d) After receipt of the documents pursuant to either subsection (b) or (c) of this section, the insurer shall respond in writing within 30 days of receipt of the request issued pursuant to subsection (a) of this section and shall disclose the limits of coverage, of all policies, regardless of whether the insurer contests the applicability of the policy to the claim.

(e) Disclosure of documentation required under this section shall not constitute:

(1) An admission that the asserted claim is subject to the applicable agreement between the insurer and the alleged tortfeasor; or

(2) A waiver of any term or condition of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability.

(f) An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for disclosure of the required documentation.

(g) Information concerning the insurance policy is not, by reason of disclosure pursuant to this section, admissible as evidence at trial.

(h) For the purposes of this section, the term "vehicle accident" includes accidents involving bicyclists.

(Sept. 18, 1982, D.C. Law 4-155, § 4a, as added Apr. 23, 2013, D.C. Law 19-281, § 2, 60 DCR 2129.)

Legislative history of Law 19-281. — Law 19-281, the "Pre-litigation Discovery of Insurance Coverage Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-890. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 25, 2013, it was assigned Act No. 19-646 and transmitted to Congress for its review. D.C. Law 19-281 became effective on April 23, 2013.

§ 31-2406. Availability of required and optional insurance and benefits.

(a) *In general.* —

(1)(A) After consultation with insurers authorized to sell motor vehicle insurance in the District, the Commissioner shall from time to time approve, with any reasonable modifications, a reasonable plan or plans to assure the availability, to all owners of motor vehicles, of the insurance required to be maintained and of the insurance required to be offered by this chapter. The plan shall provide for suitable apportionment, by the manager or committee designated to operate the plan, among insurers of applicants for any of the

insurance who are unable to obtain insurance reasonably through ordinary methods.

(B) When a plan has been approved by the Commissioner, all insurers authorized to sell motor vehicle insurance in the District shall subscribe thereto, cooperate therewith, and participate therein; provided, however, that no insurer shall be required to quote plan rates to applicants for voluntary insurance or to seek waivers from the plan before selling such voluntary insurance.

(C) Any applicant for a policy, any named beneficiary or insured under a policy issued pursuant to the plan, and any insurer may appeal to the Commissioner from any decision of the manager or committee designated to operate the plan.

(D) Each insurer selling motor vehicle insurance in the District shall be required to offer insurance which shall provide at least all minimum benefits required by this chapter with respect to: (i) property damage liability; (ii) third-party personal liability; and (iii) uninsured motorist protection. In addition, each insurer shall offer optional personal injury protection insurance required by § 31-2404 and underinsured motor vehicle coverage as required by this section. Taxicab insurers and self-insurers shall be exempt from the requirement to offer optional personal injury protection insurance. Taxicab insurers and self-insurers shall also be exempt from the requirements of § 31-2404 that they offer uninsured motorist protection and underinsured motor vehicle coverage.

(2) Each insurer selling motor vehicle insurance in the District shall make the insurance policy understandable to policyholders. Each insurance company shall provide to policy holders at least annually the following information:

(A) A listing of each type of coverage available; and

(B) An explanation of the mandatory insurance and required options created under this chapter.

(2A) For policies issued or reissued after January 1, 2007, insurers shall be required to provide at least 2 copies of an Insurance Identification Card to the policyholder of the vehicle registered in the District of Columbia. The Insurance Identification Card must be carried in the insured motor vehicle for production upon demand. The insurer shall provide additional copies of the Insurance Identification card upon request of the insured.

(3), (4) Repealed.

(5) No insurer authorized to sell motor vehicle insurance in the District shall increase the rates charged an insured on account of an accident unless it is first determined that the accident was caused by the fault of the insured.

(b) *Property damage insurance.* — Property damage insurance shall provide that any liability to an insured to pay for property damage to any vehicle or other property not owned or controlled by the insured, in accordance with applicable law, shall be paid by the applicable insurer up to an amount requested by the named insured. The minimum amount of property damage liability insurance coverage that a named insured shall purchase is $10,000 for property damage in any 1 accident.

(c) *Third-party personal liability.* — Third-party personal liability coverage shall provide that any liability of an insured to pay for injury arising from an accident within or outside the District of Columbia, in accordance with applicable law, shall be paid by the insurer up to the amount established in the policy. The minimum amount of 3rd-party personal liability coverage that an insured shall purchase shall be $25,000 per person injured in any 1 accident and $50,000 for all persons injured in any 1 accident.

(c-1) *Underinsured motor vehicle coverage.* — Underinsured motor vehicle coverage is for the protection of an insured who is legally entitled to recover damages from the owner or operator of an underinsured motor vehicle. Each insurer shall offer, except for the operation of motorcycles and motor-driven cycles, optional underinsured motor vehicle coverage in amounts up to the amounts of the uninsured motorist coverage as requested by the insured. Once an insured has rejected this underinsured motor vehicle coverage the insurer does not have to reoffer it. The insurer shall not be required to obtain or maintain written rejections of the underinsured motor vehicle coverage. The benefits provided by the underinsured motor vehicle coverage shall be subject to the same provisions as denials or exclusions of coverages, insolvency, subrogation, and set-off as provided in the uninsured motorist coverage. Nothing in this section shall prohibit the inclusion of underinsured motor vehicle coverage in any uninsured motor vehicle coverage provided in compliance with this chapter. Insurance that includes underinsured motor vehicle coverage may include terms and conditions that preclude stacking of underinsured motor vehicle coverage.

(d), (e) Repealed.

(f) *Mandatory uninsured motorist protection.* —

(1) For the purposes of this subsection, the term "uninsured motor vehicle" means a motor vehicle which:

(A) Is a motor vehicle which is not insured by a motor vehicle liability policy applicable to the accident;

(B) Is covered by a motor vehicle liability policy of insurance but the insurer denies coverage for any reason or becomes the subject of insolvency proceedings in any jurisdiction; or

(C) Is a motor vehicle which causes bodily injury or property damage and whose owner or operator cannot be identified.

(2) Each insurer selling motor vehicle insurance in the District with respect to any motor vehicle registered or principally garaged in the District shall include coverage for bodily injury or death in amounts of $25,000 per person injured in any 1 accident, or $50,000 for all persons injured in any 1 accident, and coverage for property damage in an amount of $5,000 for property damage in any 1 accident for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles.

(3) Any payments for property damage made pursuant to this subsection shall be subject to a deductible amount of $200.

(4) The named insured may require the issuance of coverage for bodily injury or death and property damage in accordance with a schedule of optional

higher amounts up to the amount of $100,000 per person injured in any 1 accident or $300,000 for all persons injured in any 1 accident, and up to $25,000 for property damages for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles.

(5) To the extent of any payment made to any person by the insurer under the coverage required by this section and subject to the terms and conditions of the coverage, the insurer is entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of any person against any other person legally responsible for the bodily injury or death for which the payment is made, including any amount recoverable from an insurer which is or becomes the subject of an insolvency proceeding through such proceedings or in any other lawful manner.

(6) No insurer shall attempt to recover any amount against the insured of an insurer which is or becomes the subject of insolvency proceedings.

(7) Any motor vehicle policy of insurance may include terms and conditions that preclude stacking of uninsured motor vehicle coverages.

(g) *Prohibitions.* — A victim is prohibited from claiming personal injury protection benefits under this chapter, other than to compensate for any deductible, if the victim is eligible for compensation for the loss covered by personal injury protection from another insurer or another insurance coverage, unless the victim has exhausted benefits offered by the insurer or insurance coverage.

(h) *Additional reporting obligations.* — The Director may require a person whose driver's license or registration was revoked to obtain insurance coverage that includes additional reporting obligations, including SR 22 insurance coverage, prior to the issuance or reinstatement of a driver's license or registration, or both.

(Sept. 18, 1982, D.C. Law 4-155, § 7, 29 DCR 3491; Mar. 4, 1986, D.C. Law 6-96, § 2(e), 32 DCR 7245; Feb. 24, 1987, D.C. Law 6-192, § 19, 33 DCR 7836; Sept. 20, 1996, D.C. Law 11-160, § 2(b), 43 DCR 3722; May 21, 1997, D.C. Law 11-268, § 10(v), 44 DCR 1730; June 8, 2006, D.C. Law 16-117,§ 201(b), 53 DCR 2548; Mar. 14, 2007, D.C. Law 16-279, § 101, 54 DCR 903; Mar. 25, 2009, D.C. Law 17-353, §§ 197(a), 246, 56 DCR 1117; Apr. 27, 2013, D.C. Law 19-290, § 2(b), 60 DCR 2343.)

Section references. — This section is referenced in § 5-114.01, § 31-2402, § 31-2403, § 31-2404, § 31-2405, and § 31-2411.

Effect of amendments.

The 2013 amendment by D.C. Law 19-290 substituted "motorcycles and motor-driven cycles" for "motorcycles" in (c-1).

Legislative history of Law 19-290. — See note to § 31-2402.

CASE NOTES

Construction and application.

Taxicab, which was involved in an auto accident, was uninsured, thereby triggering uninsured-vehicle coverage, because D.C. Code § 31-2406, by its terms, was not limited to instances in which an insurer validly denied coverage, but, instead, applied when an insurer denied coverage for any reason. Waring v. Moore, 74 A.3d 685, 2013 D.C. App. LEXIS 510 (2013).

Chapter 25. Fire, Casualty, and Marine Insurance.

Subchapter II. Powers and Duties of the Commissioner

Subchapter II. Powers and Duties of the Commissioner.

§ 31-2502.28. Rate and form filing requirements for accident and health policies.

The Commissioner may require that the provisions and conditions contained in any policy of insurance against loss or damage from sickness or bodily injury or death of the insured by accident issued by, and the rate-making and filing obligations of, any company authorized by this chapter to transact business in the District be made to conform to the requirements prescribed under § 31-4712.

(Oct. 9, 1940, 54 Stat. 1076, ch. 792, ch. II, § 28; May 21, 1997, D.C. Law 11-268, § 10(r)(2), 44 DCR 1730; Apr. 8, 2011, D.C. Law 18-360, § 501, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 87, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-360 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-2502.28a. Flood insurance notice requirements for the provision of homeowner's and renter's insurance.

(a) Within 90 days of September 19, 2013, a company authorized to sell or negotiate homeowner's or renter's insurance in the District of Columbia shall provide a written notice that states that a standard homeowner's or renter's insurance policy does not cover losses from flood to:

(1) An applicant at the time of application for a homeowner's or renter's insurance policy;

(2) A policyholder at the time of each renewal of a homeowner's or renter's insurance policy, to accompany the renewal notice; and

(3) On a one-time basis, a policyholder of a homeowner's or renter's insurance policy; provided, that a company shall not be required to provide the one-time notice to an existing policyholder if the renewal of that policyholder's policy comes due within 90 days of the date the company began issuing the notices required by this subsection.

(b) The statement shall:

(1) Be on a separate form;

(2) Be titled, in at least 12-point type, "Flood Coverage Not Included in the Standard Homeowner's or Renter's Insurance Policy"; and

(3) Contain, at a minimum, the following information in at least 12 point type:

(A) Advise the applicant that flood insurance may be available for an additional premium and that a claim under a flood insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's or renter's insurance policy;

(B) Advise the applicant that a separate application must be completed to purchase flood insurance;

(C) State that flood insurance may be available through the National Flood Insurance Program or other sources;

(D) Provide the applicant with the contact information for the National Flood Insurance Program;

(E) Advise the applicant to consult with the National Flood Insurance Program, the District Department of the Environment, the District Department of Insurance, Securities, and Banking, or the applicant's mortgage lender about the risks of flooding and the potential costs and benefits of flood insurance; and

(F) Advise the applicant that the statement shall not be considered a replacement for the terms of the insurance policy, shall not have the effect of altering the coverage afforded by the policy, shall not confer new or additional rights beyond those expressly provided for in the policy, and is only provided as guidance to the homeowner in understanding the terms of the insurance policy.

(c) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends by mail the notice to the insured.

(d) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the notice to the applicant in a stand-alone format, similar to the notice requirements in subsection (b)(1), (2), and (3) of this section, before the submission of the application.

(e) The insurer's failure to provide notice as required under this section does not create a private right of action.

(Oct. 9, 1940, 54 Stat. 1066, ch. 792, ch. II, § 28a, as added Sept. 19, 2013, D.C. Law 20-18, § 2, 60 DCR 9843.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-18 added this section.

Legislative history of Law 20-18. — Law 20-18, the "Fire and Casualty Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-31. The Bill was adopted on first and second readings on May 7, 2013, and June 4, 2013, respectively. Signed by the Mayor on June 27, 2013, it was assigned Act No. 20-95 and transmitted to Congress for its review. D.C. Law 20-18 became effective on September 19, 2013.

§ 31-2502.28b. Sewer-line backup insurance notice requirements for the provision of homeowner's and renter's insurance.

(a) Within 90 days of September 19, 2013, a company authorized to sell or negotiate homeowner's or renter's insurance in the District of Columbia shall provide a written notice that states that a standard homeowner's or renter's insurance policy does not cover losses from sewer-line back up to:

(1) An applicant at the time of application for a homeowner's or renter's insurance policy;

(2) A policyholder at the time of each renewal of a homeowner's or renter's insurance policy, to accompany the renewal notice; and

(3) On a one-time basis, a policyholder of a homeowner's or renter's insurance policy; provided, that a company shall not be required to provide the one-time notice to an existing policyholder if the renewal of that policyholder's policy comes due within 90 days of the date the company began issuing the notices required by this subsection.

(b) The statement shall:

(1) Be on a separate form;

(2) Be titled, in at least 12-point type, "Sewer-line Backup Coverage Not Included in the Standard Homeowner's or Renter's Insurance Policy"; and

(3) Contain, at a minimum, the following information, in at least 12-point type:

(A) Advise the applicant that sewer-line backup insurance may be available for an additional premium and that a claim under a sewer-line backup insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's or renter's insurance policy;

(B) Advise the applicant that a separate application must be completed to purchase sewer-line backup insurance;

(C) Advise the applicant to consult with the District Department of Insurance, Securities, and Banking or the applicant's mortgage lender about the risks of sewer- line backup and the potential costs and benefits of sewer-line backup insurance; and

(D) Advise the applicant that the statement shall not be considered a replacement for the terms of the insurance policy, shall not have the effect of altering the coverage afforded by the policy, shall not confer new or additional rights beyond those expressly provided for in the policy, and is only provided as guidance to the homeowner in understanding the terms of the insurance policy.

(c) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends by mail the notice to the insured.

(d) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the notice to the applicant in a stand-alone format, similar to the notice requirements in subsection (b)(1), (2), and (3) of this section, before the submission of the application.

(e) The insurer's failure to provide notice as required under this section does not create a private right of action.

(Oct. 9, 1940, 54 Stat. 1066, ch. 792, ch. II, § 28b, as added Sept. 19, 2013, D.C. Law 20-18, § 2, 60 DCR 9843.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-18 added this section.

Legislative history of Law 20-18. — See note to § 31-2502.28a.

SUBTITLE IV. HEALTH AND RELATED INSURANCE.

CHAPTER 31D. HEALTH BENEFIT EXCHANGE.

§ 31-3171.01. Definitions.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(a) of the Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013 (D.C. Law 20-22, October 3, 2013, 60 DCR 10880).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(a) of the Better Prices, Better Quality, Better Choices for Health Coverage Emergency Act of 2013 (D.C. Act 20-87, June 19, 2013, 60 DCR 9542, 20 DCSTAT 1446).

For temporary (90 days) amendment of this section, see §§ 2(a) and 3 of the Better Prices, Better Quality, Better Choices for Health Coverage Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-170, September 26, 2013, 60 DCR 14742).

§ 31-3171.04. Authority duties and powers.

(a) The Authority shall:

(1) Establish the American Health Benefit Exchange to assist qualified individuals in the District with enrollment in qualified health plans;

(2) Establish a SHOP Exchange through which qualified employers may access coverage for their employees and shall enable any qualified employer to specify a level of coverage so that any of its employees may enroll in any qualified health plan offered through the SHOP Exchange at the specified level of coverage;

(3) Certify plans as qualified health plans as set forth in § 31-3171.09 and make such plans available to qualified individuals and qualified employers, as required by the Federal Act, with effective dates on January 1, 2014; provided, that the Authority shall not make available any health benefit plan that is not a qualified health plan.

(4) Have independent personnel authority to hire, retain, and terminate personnel as appropriate to perform the functions of the Authority consistent with Chapter 6 of Title 1 [§ 1-601.01 et seq.], including establishing compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules;

(5) Have procurement authority independent of the Office of Contracting

and Procurement, and shall not be subject to Chapter 3A of Title 2 [§ 2-352.01 et seq.]; except, that § 2-352.02(a), (b), (c), and (e) shall apply.

(6) Publish the average costs of licensing, regulatory fees, and any other payments required by the Authority, and the administrative costs of the Authority, on a website that is publically accessible, to educate consumers on these costs. This information shall include information on monies lost to waste, fraud, and abuse;

(7) Implement procedures for certification, recertification, and decertification, consistent with guidelines developed by the Secretary under section 1311(c) of the Federal Act and of this chapter, of health benefit plans as qualified health plans;

(8) Provide for the operation of a toll-free telephone hotline to respond to requests for assistance, utilizing staff who are trained to provide assistance in a culturally and linguistically appropriate manner;

(9) Provide for enrollment periods, as provided under section 1311(c)(6) of the Federal Act;

(10) Maintain a publically accessible website, through which enrollees and prospective enrollees of qualified health plans and dental plans may obtain standardized comparative information, including on health plan quality and performance, for such plans;

(11) Assign a rating to each qualified health plan offered through the exchanges in accordance with the criteria developed by the Secretary under section 1311(c)(3) of the Federal Act, and determine each qualified health plan's level of coverage in accordance with regulations issued by the Secretary under section 1302(d)(2)(A) of the Federal Act;

(12) Use a standardized format for presenting health benefit options in the exchanges, including the use of the uniform outline of coverage established under section 2715 of the PHSA;

(13) Conduct eligibility determinations, in accordance with section 1413 of the Federal Act for the Medicaid program under title XIX of the Social Security Act, the Children's Health Insurance Program under title XXI of the Social Security Act, or any other applicable District program pursuant to the policies and procedures established by the Department of Health Care Finance;

(14) Establish and make available, through a website that is publicly available, a calculator to determine the actual cost of coverage after application of any premium tax credit under section 36B of the Internal Revenue Code of 1986 and any cost-sharing reduction under section 1402 of the Federal Act, and, if feasible, which is designed to provide consumers with information on out-of-pocket costs for in-network and out-of-network services, taking into account any cost-sharing reductions;

(15) Grant a certification, subject to section 1411 of the Federal Act, attesting that, for purposes of the individual responsibility penalty under section 5000A of the Internal Revenue Code of 1986, an individual is exempt from the individual responsibility requirement or from the penalty imposed by that section because:

(A) There is no affordable qualified health plan available through the exchanges, or the individual's employer, covering the individual; or

(B) The individual meets the requirements for another exemption from the individual responsibility requirement or penalty;

(16) Transfer to the Secretary of the United States Department of the Treasury the following:

(A) A list of the individuals who are issued a certification under paragraph (15) of this subsection, including the name and taxpayer identification number of each individual;

(B) The name and taxpayer identification number of each individual who was an employee of an employer who was determined to be eligible for the premium tax credit under section 36B of the Internal Revenue Code of 1986 because the employer:

(i) Did not provide minimum essential coverage; or

(ii) Provided the minimum essential coverage, but it was determined under section 36B(c)(2)(C) of the Internal Revenue Code of 1986 to either be unaffordable to the employee or did not provide the required minimum actuarial value; and

(C) The name and taxpayer identification number of:

(i) Each individual who notifies the Authority under section 1411(b)(4) of the Federal Act that he or she has changed employers; and

(ii) Each individual who ceases coverage under a qualified health plan during a plan year and the effective date of the cessation;

(17) Provide to each employer the name of each employee of the employer described in paragraph (16)(B) of this subsection who ceases coverage under a qualified health plan during a plan year and the effective date of the cessation;

(18) Perform the duties required of the Authority by the Secretary, or the Secretary of the United States Department of the Treasury, related to determining eligibility for:

(A) Premium tax credits;

(B) Reduced cost-sharing; or

(C) Individual responsibility requirement exemptions;

(19) Select entities qualified to serve as Navigators in accordance with section 1311(i) of the Federal Act, and standards developed by the Secretary, and award grants to enable Navigators to:

(A) Conduct public education activities to raise awareness of the availability of qualified health plans and qualified dental plans;

(B) Distribute fair and impartial information concerning enrollment in qualified health plans and qualified dental plans, and the availability of premium tax credits under section 36B of the Internal Revenue Code of 1986 and cost-sharing reductions under section 1402 of the Federal Act;

(C) Facilitate enrollment in qualified health plans and qualified dental plans;

(D) Provide referrals to an office of health insurance consumer assistance or health insurance ombudsman, including the Office of Health Care Ombudsman and Bill of Rights, or any other appropriate District agency, for any enrollee with a grievance or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage; and

(E) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchanges;

(20) Review the rate of premium growth within and outside the exchanges and consider the information in developing recommendations on whether to continue limiting qualified employer status to small employers;

(21) Consult with stakeholders relevant to carrying out the activities required under this chapter, including:

(A) Educated health care consumers who are enrollees in qualified health plans or qualified dental plans;

(B) Individuals and entities with experience in facilitating enrollment in qualified health plans or dental plans;

(C) Representatives of small businesses and self-employed individuals;

(D) The Department of Health Care Finance;

(E) Individuals who have experience enrolling difficult-to-reach populations in public insurance programs;

(F) Public health experts;

(G) Health care providers; and

(H) Office of Health Care Ombudsman and Bill of Rights;

(22) Meet the following financial integrity requirements:

(A) Keep an accurate accounting of all activities, receipts, and expenditures and annually submit to the Secretary, Mayor, Council, and the Commissioner a report of the accountings;

(B) Fully cooperate with any investigation conducted by the Secretary pursuant to the Secretary's authority under the Federal Act;

(C) Allow the Secretary, in coordination with the Inspector General of the United States Department of Health and Human Services, to:

(i) Investigate the affairs of the Authority;

(ii) Examine the properties and records of the Authority; and

(iii) Require periodic reports in relation to the activities undertaken by the Authority; and

(D) In carrying out its activities under this chapter, not use any funds intended for the administrative and operational expenses of the Authority for:

(i) Staff retreats;

(ii) Promotional giveaways;

(iii) Excessive executive compensation; or

(iv) Promotion of federal or District legislative and regulatory modifications not contemplated under the Federal Act.

(b) In addition to certifying qualified health plans, the Authority shall allow a health carrier to offer a plan that provides limited scope dental benefits meeting the requirements of section 9832(c)(2)(A) of the Internal Revenue Code of 1986 through the exchanges, either separately or in conjunction with a qualified health plan, if the plan provides pediatric dental benefits meeting the requirements of section 1302(b)(1)(J) of the Federal Act.

(c) Neither the Authority nor a health carrier offering qualified health plans through the exchanges may charge an individual a fee or penalty for termination of coverage if the individual enrolls in another type of minimum essential coverage because the individual has become newly eligible for that coverage or because the individual's employer-sponsored coverage has become unaffordable under the standards of section 36B(c)(2)(C) of the Internal Revenue Code of 1986.

(d) The operations of the Authority are subject to the provisions of this chapter whether the operations are performed directly by the Authority or through an entity under a contract with the Authority.

(Mar. 2, 2012, D.C. Law 19-94, § 5, 59 DCR 213; Mar. 14, 2014, D.C. Law 20-94, § 3(a), 61 DCR 963.)

Section references. — This section is referenced in § 31-3171.01 and § 31-3171.09.

Effect of amendments. — The 2014 amendment by D.C. Law 20-94 substituted "and shall not be subject to Chapter 3A of Title 2" for "consistent with Chapter 3A of Title 2" in (a)(5).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Health Benefit Exchange Authority Establishment Temporary Amendment Act of 2013 (D.C. Law 20-11, July 13, 2013, 60 DCR 7236, 20 DCSTAT 1757).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2 of the Health Benefit Exchange Authority Establishment Emergency Amendment Act of 2013 (D.C. Act 20-49, April 15, 2013, 60 DCR 6337, 20 DCSTAT 1355).

For temporary (90 days) amendment of this section, see § 2 of the Health Benefit Exchange Authority Establishment Congressional Review Emergency Act of 2013 (D.C. Act 20-125, July 26, 2013, 60 DCR 11136, 20 DCSTAT 1821).

For temporary (90 days) amendment of this section, see § 3(a) of the Procurement Practices Reform Exemption Emergency Amendment Act of 2014 (D.C. Act 20-282, February 20, 2014, 61 DCR 1576).

Legislative history of Law 20-94. — Law 20-94, the "Procurement Practices Reform Exemption Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-152. The Bill was adopted on first and second readings on December 3, 2013, and January 7, 2014, respectively. Signed by the Mayor on January 23, 2014, it was assigned Act No. 20-271 and transmitted to Congress for its review. D.C. Law 20-94 became effective on March 14, 2014.

Expiration of Law 20-94. — The second section designated as Section 3 of D.C. Law 20-94 provided that §§ 2(a)(2), 2(a)(3), 2(a)(4) and 3(a) of the act shall expire at the end of fiscal year 2018.

§ 31-3171.06. Powers and duties of executive board.

(a) Subject to any limitations under this chapter, or other applicable law, the executive board shall have all the powers necessary to carry out the functions authorized by the Federal Act and consistent with the purposes of the Authority.

(b) The enumeration of specific powers in this chapter is not intended to restrict the executive board's power to take any lawful action that it determines is necessary to carry out the functions authorized by the Federal Act and is consistent with the purposes of the Authority.

(c) In addition to the powers set forth elsewhere in this chapter, the executive board may:

(1) Adopt and alter an official seal;

(2) Sue, be sued, plead, and be impleaded;

(3) Adopt bylaws, rules, and policies;

(4) Maintain an office in the District at a place designated by the executive board;

(5) Enter into any agreements or contracts and execute the instruments necessary to manage its affairs and to carry out the purposes of this chapter;

(6) Apply for and receive grants, contracts, or other public or private funding; and

(7) Do all things necessary in conformity with the law to exercise the powers granted by this chapter.

(d)(1) To carry out the purposes of this chapter or perform any of its functions under this chapter, the executive board may contract or enter into memoranda of understanding with eligible entities, including the:

(A) Department of Health Care Finance;

(B) Department of Human Services;

(C) Department of Insurance, Securities and Banking;

(D) Insurance producers and third-party administrators registered in the District; and

(E) Any other entities that have experience in individual and small group public and private health insurance plans or in facilitating enrollment in those plans.

(2) The executive board shall ensure that any entity under a contract with the Authority complies with the provisions of this chapter when performing services on behalf of the Authority that are subject to this chapter.

(e)(1) The executive board may enter into information-sharing agreements with federal agencies, District agencies, agencies of one or more states, and other state health insurance exchanges to carry out the provisions of this chapter.

(2) An information-sharing agreement entered into under paragraph (1) of this subsection shall:

(A) Include adequate protections with respect to the confidentiality of information; and

(B) Comply with all District and federal laws and regulations.

(f) The executive board shall adopt written policies and procedures, which shall be made publicly accessible on the Authority's website and published in the District of Columbia Register, governing all procurements of the Authority.

(g) The executive board may limit the number of plans offered in the exchanges using selective criteria or contracting; provided, that individuals and employers have an adequate number and selection of choices.

(h) The executive board may merge the exchanges for individual coverage within the American Health Benefits Exchange and the SHOP Exchange if a merger is considered by the Authority to be in the best interest of the District.

(Mar. 2, 2012, D.C. Law 19-94, § 7, 59 DCR 213; Mar. 14, 2014, D.C. Law 20-94, § 3(b), 61 DCR 963.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-94 substituted "policies and procedures, which shall be made publicly accessible on the Authority's website and published in the District of Columbia Register" for "policies and procedures" in (f).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(b) of the Procurement Practices Reform Exemption Emergency Amendment Act of 2014 (D.C. Act 20-282, February 20, 2014, 61 DCR 1576).

Legislative history of Law 20-94. — See note to § 31-3171.04.

§ 31-3171.09. Health benefit plan certification.

Section references. — This section is referenced in § 31-3171.01 and § 31-3171.04.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013 (D.C. Law 20-22, October 3, 2013, 60 DCR 10880).

For temporary (225 days) addition of D.C. Law 19-94, § 10a, concerning distribution of

individual and small group health benefit plans, see § 2(c) of the Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013 (D.C. Law 20-22, October 3, 2013, 60 DCR 10880).

For temporary (225 days) addition of D.C. Law 19-94, § 10b, concerning sale, solicitation, and negotiation by insurance producers, see § 2(c) of the Better Prices, Better Quality, Better Choices for Health Coverage Temporary Amendment Act of 2013 (D.C. Law 20-22, October 3, 2013, 60 DCR 10880).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(b) of the Better Prices, Better Quality, Better Choices for Health Coverage Emergency Act of 2013 (D.C. Act 20-87, June 19, 2013, 60 DCR 9542, 20 DCSTAT 1446).

For temporary (90 days) addition of D.C. Law 19-94, § 10a, concerning distribution of individual and small group health benefit plans, see § 2(c) of the Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013 (D.C. Act 20-87, June 19, 2013, 60 DCR 9542, 20 DCSTAT 1446).

For temporary (90 days) addition of D.C. Law 19-94, § 10b, concerning sale, solicitation, and negotiation by insurance producers, see § 2(c) of the Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013 (D.C. Act 20-87, June 19, 2013, 60 DCR 9542, 20 DCSTAT 1446).

For temporary (90 days) amendment of this section, see §§ 2(b) and 3 of the Better Prices, Better Quality, Better Choices for Health Coverage Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-170, September 26, 2013, 60 DCR 14742).

For temporary (90 days) addition of D.C. Law 19-94, § 10a, see §§ 2(c) and 3 of the Better Prices, Better Quality, Better Choices for Health Coverage Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-170, September 26, 2013, 60 DCR 14742).

§ 31-3171.18. Applicability.

(a) This chapter shall apply through September 30, 2014.

(b) Beginning on October 1, 2014, this chapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

(Mar. 2, 2012, D.C. Law 19-94, § 19, 59 DCR 213; Sept. 20, 2012, D.C. Law 19-168, § 7015, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 7015 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7015 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 7016 of D.C. Law 19-168 provided that § 7015 of the act shall apply as of June 19, 2012.

CHAPTER 33A. HEALTH INSURANCE RATEMAKING.

§ 31-3311.02. Aggregate medical loss ratios; dividend; and rating bands.

(a) For each calendar year, an insurer shall maintain an aggregate mini-

mum medical loss ratio, as defined by rule, of 80% for individual policies, as defined by rule, 80% for small group policies, as defined by rule, and 85% for large group policies, as defined by rule. The medical loss ratio shall be defined by the Commissioner and shall be determined by rule in a manner and generally consistent with the same standards as the medical loss ratio defined in section 2718(b) of the Public Health Service Act, approved March 23, 2010 (124 Stat. 136; 42 U.S.C. § 300gg-18(b)). No later than May 31st of each year, insurers shall file an annual report with the Commissioner, in a manner and on a form prescribed by Commissioner, indicating the medical loss ratio calculated for all policies and contracts written for the previous calendar year.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this chapter when combined with actual experience to date.

(c) In each case where the insurer fails to substantially comply with the medical loss ratio requirements set forth in subsection (a) of this section, the insurer shall issue a rebate for all policyholders in an amount determined in accordance with section 2718(b)(1)(B) of the Public Health Service Act, approved March 23, 2010 (124 Stat. 136; 42 U.S.C. § 300gg-18(b)(1)(B). The annual report required by this section shall include the insurer's calculation of the rebates and an explanation of the insurer's plan to issue rebates. The instructions and format for calculating and reporting medical loss ratios and issuing rebates shall be prescribed by the Commissioner by rule. The Commissioner shall establish, by rule, procedures for the distribution of a rebate in the event of cancellation or termination by a policyholder.

(d) A plan of individual or small group health insurance rates shall not include a standard rate for any age that is more than 300% of the standard rate for the age with the lowest rate in the same plan and the standard rate for any age shall not be more than 104% of the standard rate for the previous age.

(e) An insurer's failure to comply with the rebate requirements in subsection (c) of this section or rating band requirements set forth in subsection (d) of this section shall constitute an unfair or deceptive act or practice and shall be subject to the penalties in Chapter 22A of this title [§ 31-2231.01 et seq.].

(f) The Commissioner may audit any insurer to assure compliance with this section. Insurers shall retain at their principal place of business information necessary for the Commissioner to perform compliance audits.

(Apr. 8, 2011, D.C. Law 18-360, § 103, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 85(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "this title" for "this act" [translated as "this chapter"] in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3311.05. Commissioner's authority to rescind approved rates.

(a) The Commissioner may, at any time, require any insurer subject to this chapter to demonstrate that its rates and method for setting rates are in compliance with this chapter, notwithstanding that the filings then in effect had previously been approved. Any rates previously approved by the Commissioner, but subsequently disapproved under this chapter, shall be considered disapproved on a prospective basis only from the date of the notice of disapproval, unless the insurer made a material misrepresentation in its contract form or rate filings, in which case the rates shall be deemed disapproved on a retroactive basis.

(b) If, at any time subsequent to the approval of rates, the Commissioner finds that a filing does not meet the requirements of this chapter, the Commissioner shall issue an order to the insurer specifying why the filing fails to meet the requirements of this chapter, and, stating when, within a reasonable period thereafter, the filing shall be no longer effective. The order shall not affect any subscriber contract, group certificate, or other contract made or issued prior to the expiration of the period set forth in the order. The Commissioner may, prior to issuing the order and if requested by the insurer, hold a hearing upon not less than 10 business days' written notice to the insurer specifying the matters to be considered at the hearing.

(c) For violations of this chapter, the Commissioner may order any relief which is appropriate, including disapproving a rate and awarding interest.

(Apr. 8, 2011, D.C. Law 18-360, § 106, 58 DCR 896; Sept. 26, 2012, D.C. Law 19-171, § 85(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "this title" for "this act" [translated as "this chapter"] in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 34. HEALTH MAINTENANCE ORGANIZATIONS.

§ 31-3412. Protection against insolvency.

(a) *Net worth requirements.* —

(1) Before issuing any certificates of authority, the Commissioner shall require that the health maintenance organization have an initial net worth of $1,500,000 and shall thereafter maintain the minimum net worth required by paragraph (2) of this subsection.

(2) Except as provided in paragraph (4) of this subsection, every health

maintenance organization must maintain a minimum net worth equal to the greater of:

(A) $1,000,000;

(B) Two percent of annual dues revenues as reported on the most recent annual financial statement filed with the Commissioner on the first $150,000,000 of dues and 1% of annual dues on the dues in excess of $150,000,000;

(C) An amount equal to the sum of 3 months uncovered health care expenditures as reported on the most recent financial statement filed with the Commissioner; or

(D) An amount equal to the sum of:

(i) Eight percent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the Commissioner; and

(ii) Four percent of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the Commissioner.

(2A) Repealed.

(3) Repealed.

(4) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the Commissioner. Any interest obligation relating to the repayment of any subordinated debt must be similarly subordinated.

(A) The interest expenses relating to the repayment of any fully subordinated debt shall be considered covered expenses.

(B) Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the Commissioner, shall not be considered a liability and shall be recorded as equity.

(b) *Deposit requirements.* —

(1) Unless otherwise provided below, each health maintenance organization shall deposit with the Commissioner or, at the discretion of the Commissioner, with any organization or trustee acceptable to the Commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that are acceptable to the Commissioner which at all times shall have a value of not less than $300,000.

(2)(A) A health maintenance organization that is in operation on April 9, 1997 shall make a deposit equal to $150,000.

(B) In the second year, the amount of the additional deposit for a health maintenance organization that is in operation on April 9, 1997 shall be equal to $150,000, for a total of $300,000.

(3) The deposit shall be an admitted asset of the health maintenance organization in the determination of net worth.

(4) All income from deposits shall be an asset of the organization. A health maintenance organization that has made a securities deposit may withdraw that deposit, or any part thereof, after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the Commissioner before being deposited or substituted.

(5) The deposit shall be used to protect the interests of the health maintenance organization's enrollees and to assure continuation of covered services to enrollees of a health maintenance organization which is in rehabilitation or conservation. The Commissioner may use the deposit for administrative costs directly attributable to a receivership or liquidation. If a health maintenance organization is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of Chapter 13 of this title.

(6) The Commissioner may reduce or eliminate the deposit requirement if a health maintenance organization deposits with the District treasurer, Commissioner, or other official body of the District or jurisdiction of domicile for the protection of all enrollees, wherever located, of such health maintenance organization, cash, acceptable securities, or surety, and delivers to the Commissioner a certificate to such effect, duly authenticated by the regulatory authority in the state of domicile or by the appropriate District official holding the deposit.

(c) *Liabilities.* — Every health maintenance organization shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned dues and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which such organization is or may be liable, and to provide for the expense of adjustment or settlement of such claims. Such liabilities may be computed in accordance with generally accepted accounting principles.

(d) *Hold harmless.* —

(1) Every contract between a health maintenance organization and a participating provider of health care services shall be in writing and shall set forth that in the event a health maintenance organization fails to pay for health care services as set forth in the contract, the enrollee shall not be liable to the provider for any sums owed by the health maintenance organization.

(2) In the event that the participating provider contract has not been reduced to writing as required by this subsection or that the contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the enrollee sums owed by a health maintenance organization.

(3) No participating provider, agent, trustee, or assignee thereof may maintain any action at law against an enrollee to collect sums owed by a health maintenance organization.

(e) *Continuation of benefits.* —

(1) The Commissioner shall require that each health maintenance organization have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits.

(2) In considering the plan, the Commissioner may require:

(A) Insurance to cover the expenses to be paid for continued benefits after an insolvency;

(B) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after a health maintenance organization's insolvency for which premium payment has been made and until the enrollees' discharge from inpatient facilities;

(C) Insolvency reserves;

(D) Acceptable letters of credit; and

(E) Any other arrangements to assure that benefits are continued as specified above.

(f) *Notice of termination.* — An agreement to provide covered services between a provider and a health maintenance organization must require that if the provider terminates the agreement, the provider shall give the organization at least 60 days advance notice of termination.

(Apr. 9, 1997, D.C. Law 11-235, § 13, 44 DCR 818; Mar. 24, 1998, D.C. Law 12-81, § 46(c), 45 DCR 745; Mar. 27, 2003, D.C. Law 14-252, § 2(f), 50 DCR 225; Nov. 5, 2013, D.C. Law 20-40, § 7, 60 DCR 12304.)

Section references. — This section is referenced in § 31-308, § 31-3402, § 31-3403, § 31-3413, and § 31-3419.

Effect of amendments.

The 2013 amendment by D.C. Law 20-40 substituted "paragraph (4)" for "paragraphs (2A), (3), and (4)" in (a)(2); and repealed (a)(2A) and (a)(3).

Legislative history of Law 20-40. — Law 20-40, the "Saving D.C. Homes from Foreclosure Clarification and Title Insurance Clarification Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-268. The Bill was adopted on first and second readings on June 26, 2013 and July 10, 2013, respectively. Signed by the Mayor on Aug. 20, 2013, it was assigned Act No. 20-156 and transmitted to Congress for its review. D.C. Law 20-40 became effective on Nov. 5, 2013.

§ 31-3422. Regulations.

The Commissioner, within 120 days of April 9, 1997, shall issue rules and regulations necessary to implement the provisions of this chapter. To facilitate the timely issuance of rules and regulations, the Commissioner may contract out for the drafting of rules and regulations pursuant to emergency procurement provisions set forth in § 2-354.05.

(Apr. 9, 1997, D.C. Law 11-235, § 23, 44 DCR 818; Sept. 26, 2012, D.C. Law 19-171, § 215, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "set forth in § 2-354.05" for "set forth in § 2-303.12."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 35. HOSPITAL AND MEDICAL SERVICES CORPORATIONS REGULATION.

Sec.
31-3514.02. Establishment of Healthy DC and Health Care Expansion Fund.

§ 31-3506. Surplus requirements.

(a) At the time of issuance of a certificate of authority under this chapter and at all times thereafter until risk-based capital regulations for hospital and medical services corporations are promulgated, a corporation must possess surplus in an amount which is the greater of $5,000,000 or 8.0% of the total amount of premiums for insured risk received by the corporation in the preceding calendar year. The total amount of premiums for insured risk shall not include premiums collected for federal health benefit programs that have a separate reserve fund held by the federal government.

(b) The surplus requirement of 8.0% shall be phased-in following April 9, 1997 as follows:

(1) Year one — 40% of the surplus requirement in subsection (a) of this section;

(2) Year two — 60% of the surplus requirement in subsection (a) of this section;

(3) Year three — 80% of the surplus requirement in subsection (a) of this section; and

(4) Year four — 100% of the surplus requirement in subsection (a) of this section.

(c) The Mayor shall have the authority to require the differentiation of the corporation's activities into risk and nonrisk business for the purpose of determining the corporation's income that is derived from premiums for insured risk and from other sources.

(d) Notwithstanding the provisions of subsection (a) of this section, at the time of issuance of a certificate of authority under this chapter and at all times thereafter, a corporation shall be subject to the provisions of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor, and must maintain at all times such surplus as is determined to be necessary under those regulations.

(e) The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business. The surplus may be considered excessive only if:

(1) The surplus is greater than the appropriate risk-based capital requirements as determined by the Commissioner for the immediately preceding calendar year; and

(2) After a hearing, the Commissioner determines that the surplus is unreasonably large and inconsistent with the corporation's obligation under § 31-3505.01.

(f) In determining whether the surplus of the corporation that is attributable to the District is excessive, the Commissioner shall take into account all

of the corporation's financial obligations arising in connection with the conduct of the corporation's insurance business, including premium tax paid and the corporation's contribution to the open enrollment program required by § 31-3514 and payments and expenditures pursuant to a public-private partnership.

(g)(1) If the Commissioner determines that the surplus of the corporation is excessive, the Commissioner shall order the corporation to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner.

(2) A plan submitted pursuant to paragraph (1) of this subsection may consist entirely of expenditures for the benefit of current subscribers of the corporation.

(h) When determining what surplus is attributable to the District and whether the surplus is excessive, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

(i) If the Commissioner determines that the corporation failed to submit a plan as ordered under subsection (g) of this section within a reasonable period or failed to execute within a reasonable period a plan already submitted under subsection (g) of this section, the Commissioner shall deny for 12 months all premium rate increases for subscriber policies written in the District sought by the corporation pursuant to § 31-3508 and may issue such orders as are necessary to enforce the purposes of this chapter.

(j) The existence of a public-private partnership shall not preclude the Commissioner's surplus evaluation of the corporation or diminish the Commissioner's authority to issue directives to the corporation pursuant to the evaluation.

(Apr. 9, 1997, D.C. Law 11-245, § 7, 44 DCR 1158; Mar. 25, 2009, D.C. Law 17-369, § 2(d), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(c), 56 DCR 9182; Sept. 26, 2012, D.C. Law 19-171, § 88(a), 59 DCR 6190.)

Section references. — This section is referenced in § 31-3505.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "§ 31-3505.01" for "§ 31-3505(a)" in (e)(2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3514. Open enrollment.

(a) A corporation issued a certificate of authority under this chapter shall make available to citizens of the District of Columbia an open enrollment program under the terms set forth in this section.

(b) As used in this section, the term:

(1) "Comprehensive individual subscriber contracts" means subscriber contracts, conforming to the requirements of subsection (g) of this section,

which are issued to provide basic hospital and medical services, or to provide benefits and indemnification for such services.

(2) "Open enrollment subscriber contracts" means comprehensive individual subscriber contracts issued pursuant to an open enrollment program by a corporation which has a certificate of authority under this chapter and provides coverage to individuals.

(c) A corporation's open enrollment program shall provide for the issuance of open enrollment subscriber contracts without imposition by the corporation of underwriting criteria whereby coverage is denied or subject to cancellation or nonrenewal, in whole or in part, because of an individual's age, health history, medical history, employment status, or, if employed, industry or job classification.

(d) A corporation's open enrollment program shall make open enrollment subscriber contracts available to any individual residing in the District of Columbia, except, that this requirement shall not apply to any individual who is eligible for coverage as an employee of an employer which provides, in whole or in part, basic hospital and medical services, benefits, and indemnification coverage to its employees.

(e) A corporation's open enrollment program shall be available on a year-round basis.

(f) Repealed.

(g) The Mayor may prescribe minimum standards to govern the contents of comprehensive individual subscriber contracts issued pursuant to this section. Such minimum standards shall ensure that these contracts provide hospital and medical services, or benefits and indemnification for a comprehensive range of health care needs without qualifying exclusions that fail to protect the subscriber under normal circumstances. Such minimum standards shall also ensure that the option of obtaining comprehensive individual subscriber contract coverage is made available to all individuals included within the definition of "open enrollment subscriber contracts" in subsection (b)(2) of this section.

(h) The Mayor may prescribe minimum standards specifically to govern the content of comprehensive individual subscriber contracts issued to individuals who have converted from group subscriber contracts to individual coverage because of termination of the individual's eligibility for group coverage.

(i) A corporation issued a certificate of authority under this chapter shall provide other public services in the District of Columbia consisting of health-related educational support for residents of the corporation's service area who, based upon such educational support, may experience a lesser need for hospital and medical services, or benefits and indemnification for such services.

(j)(1) A corporation shall maintain a separately established rate stabilization fund ("RS Fund") to be used solely to subsidize open enrollment subscribers pursuant to subsections (c) and (d) of this section. A corporation shall deposit an amount necessary and appropriate to maintain the open enrollment program of the corporation pursuant to subsection (k)(1) of this section; provided, that the corporation shall not deduct an aggregate amount exceeding

$550,000 of its payment to the RS Fund from the amount otherwise due by the corporation under § 31-205 or § 47-2608(a). The RS Fund shall not be used to pay marketing or promotional expenses associated with the program. Unless the corporation elects to terminate the RS Fund pursuant to subsection (k)(3) of this section, the corporation shall carry over from year to year all unexpended funds in the RS Fund, including interest earned on investment of the funds in the RS Fund.

(2) In the rate filings for the open enrollment program required by § 31-3508, a corporation shall provide documentation to the Mayor confirming the existence of the RS Fund, identifying the amounts paid from the RS Fund to subsidize open enrollment rates, and specifying the RS Fund balance at year end and as of the date of the corporation's filing. The Mayor shall order annually an independent audit of the RS Fund, the expenses of which shall be paid by the corporation. If the Mayor determines, with or without an audit, that all or any portion of the money in the RS Fund is not being used to subsidize open enrollment rates or is not being reasonably set aside in anticipation of projected subsidies of open enrollment rates in future years, the Mayor may order the corporation to pay the revenue not being so used or set aside to the Healthy DC and Health Care Expansion Fund established by § 31-3514.02.

(k) A corporation shall continue to offer the program to each subscriber as long as the subscriber renews his or her coverage under the program.

(l) Any proposed rates filed by a corporation with the Mayor pursuant to § 31-3508 which are to be applied to open enrollment subscriber contracts, including individual conversion subscriber contracts, shall include a factor crediting for the benefit of this class of subscribers in an amount which assures competitive rates, the revenue which would have been otherwise collected by the District of Columbia government as a premium tax pursuant to § 31-3514(j).

(m) The open enrollment program shall maintain the following affordability and adequacy criteria for individual participants:

(1) Annual premium costs shall not exceed 125% of standard individual market rates and shall be determined once every 12 months.

(2) Cost sharing, deductibles, and co-insurance shall not exceed those in the corporation's most popular policy available to small employers in the District.

(3) Subscriber contracts shall not contain service limitations or lifetime or annual benefit maximums.

(4) Subscriber contracts and contract forms shall be subject to § 31-3508.

(5) Subscriber contracts and contract forms shall not contain exclusions or riders for pre-existing conditions.

(n) A corporation shall prominently advertise the availability of its open enrollment subscriber contracts continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District. The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet.

(o) The corporation shall make the open enrollment program available for a

minimum of 2500 subscribers. The corporation shall submit a report annually on October 1 to the Commissioner on the number of subscribers enrolled.

(p) In lieu of the requirements of subsection (m) through (o) of this section, the corporation may enter into a public-private partnership.

(q) The corporation shall submit an annual report to the Mayor regarding the open enrollment program. The Mayor shall determine the format and content of the report; provided, that the report shall include:

(1) Membership distribution by:
  (A) Age;
  (B) Gender;
  (C) Ward;
  (D) Zip code;
  (E) Race/ethnicity;
  (F) Income; and
  (G) The amount of time in the program;
(2) The number of members by contract type;
(3) Program expenditures for:
  (A) Inpatient services;
  (B) Outpatient services;
  (C) Behavioral health services; and
  (D) Prescription drugs;
(4) Average premium;
(5) Premium levels by age; and
(6) The number of members that have reached the:
  (A) Out-of-pocket maximum expenditure; and
  (B) Annual prescription drug benefit maximum.

(r) The public-private partnership shall be certified by January 31, 2010.

(Apr. 9, 1997, D.C. Law 11-245, § 15, 44 DCR 1158; June 11, 2004, D.C. Law 15-166, § 4(u)(3), 51 DCR 2817; Mar. 2, 2007, D.C. Law 16-192, § 5012(b), 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-369, § 2(f), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(e), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 5023(b), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(b), 59 DCR 6190.)

Section references. — This section is referenced in § 31-205, § 31-3501, § 31-3505, § 31-3506, § 31-3508, § 31-3512, and § 47-2608.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated previously made technical corrections.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 31-3514.02. Establishment of Healthy DC and Health Care Expansion Fund.

(a) There is established as a nonlapsing fund the Healthy DC and Health Care Expansion Fund ("Fund"). All funds deposited into the Fund, and any

interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available to support the Healthy DC Program, established by Chapter 6A of Title 4, and other medical assistance programs administered by the Department of Health Care Finance, without regard to fiscal year limitation, subject to authorization by Congress.

(b) There shall be deposited into the Fund:

(1) All tax revenue generated pursuant to § 31-3514.01;

(2) Any other local funds, including any fees, penalties, or other tax revenues required by District law, including the premium tax imposed on health maintenance organizations, as required by § 31-3403.01.

(3) Annual appropriations, if any;

(4) Federal grant funds;

(5) All fines and penalties collected pursuant to Chapter 6A of Title 4; and

(6) Grants, gifts, or subsidies from public or private sources.

(c) Notwithstanding subsection (a) of this section, for fiscal year 2010, up to $3.25 million from the Fund shall be utilized to support the following one-time allocations:

(1) An amount of $2.5 million shall support a grant to an acute care pediatric hospital in the District for the purpose of supporting operational expenses associated with the new pediatric emergency facility located at the United Medical Center; and

(2) Up to $750,000 to support operational expenses associated with the delivery of health care services at the D.C. Jail.

(Apr. 9, 1997, D.C. Law 11-245, § 15b, as added Mar. 2, 2007, D.C. Law 16-192, § 5012(c), 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 5050, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 138, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 5131, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223,§ 5023(c), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(c), 59 DCR 6190.)

Section references. — This section is referenced in § 4-632, § 4-637, § 31-3403.01, § 31-3501, § 31-3514, § 47-368.06, and § 47-2002.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 38C. TELEHEALTH REIMBURSEMENT.

(Oct. 17, 2013, D.C. Law 20-26, § 2, 60 DCR 11117.)

§ 31-3861. Definitions.

For the purposes of this chapter, the term:

(1) "Health benefits plan" shall have the same meaning as provided in § 31-3131(4).

(2) "Health insurer" shall have the same meaning as provided in § 31-3131(5).

(3) "Provider" shall have the same meaning as provided in § 31-3131(7).

(4) "Telehealth" means the delivery of healthcare services through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment; provided, that services delivered through audio-only telephones, electronic mail messages, or facsimile transmissions are not included.

(Oct. 17, 2013, D.C. Law 20-26, § 2, 60 DCR 11117.)

Legislative history of Law 20-26. — Law 20-26, the "Telehealth Reimbursement Act of 2013," was introduced in Council and assigned Bill No. 20-50. The Bill was adopted on first and second readings on June 4, 2013, and June 26, 2013, respectively. Signed by the Mayor on July 23, 2013, it was assigned Act No. 20-119 and transmitted to Congress for its review. D.C. Law 20-26 became effective on October 17, 2013.

§ 31-3862. Private reimbursement.

(a) A health insurer offering a health benefits plan in the District may not deny coverage for a healthcare service on the basis that the service is provided through telehealth if the same service would be covered when delivered in person.

(b) A health insurer shall reimburse the provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth.

(c) A health insurer shall not be required to:

(1) Reimburse a provider for healthcare service delivered through telehealth that is not a covered under the health benefits plan; and

(2) Reimburse a provider who is not a covered provider under the health benefits plan.

(d) A health insurer may require a deductible, copayment, or coinsurance amount for a healthcare service delivered through teleheath; provided, that the deductible, copayment, or coinsurance amount may not exceed the amount applicable to the same service when it is delivered in person.

(e) A health insurer shall not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services under the health benefits plan.

(f) Nothing in this chapter shall preclude the health insurer from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a healthcare service; provided, that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

(Oct. 17, 2013, D.C. Law 20-26, § 3, 60 DCR 11117.)

Legislative history of Law 20-26. — See note to § 31-3861.

§ 31-3863. Medicaid reimbursement.

Medicaid shall cover and reimburse for healthcare services appropriately delivered through telehealth if the same services would be covered when delivered in person.

(Oct. 17, 2013, D.C. Law 20-26, § 4, 60 DCR 11117.)

Legislative history of Law 20-26. — See note to § 31-3861.

SUBTITLE VII. PROPERTY AND RELATED INSURANCE.

CHAPTER 50A. TITLE INSURANCE INSURERS.

§ 31-5031.01. Definitions.

For the purposes of this chapter, the term:

(1) "Abstract of title" or "abstract" means a written history, synopsis, or summary of the recorded instruments affecting the title to real property.

(2) "Affiliate" means, with respect to a person, another person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person.

(3) Repealed.

(4) "Attorney" means a person who holds a license to practice law in the District of Columbia.

(4A) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(5) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking, or the Commissioner's representatives, or the commissioner, director, or superintendent of insurance in any other state.

(6) "Direct operations" means that portion of a title insurer's operations that is attributable to business written or conducted directly by an employee of:

(A) The title insurer;

(B) A title insurance producer owned by:

(i) The title insurer;

(ii) A parent entity owning the title insurer;

(iii) A holding entity owning the title insurer; or

(iv) A subsidiary of a parent or holding entity owning a title insurer.

(7) "Escrow" means written instruments, money, or other items deposited by one party with a depository, escrow agent, or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event.

(8) "Escrow Officer" means a person who maintains an escrow or indemnified deposit account.

(9) "Escrow, settlement, or closing fee" means the consideration for supervising or handling the actual execution, delivery, or recording of transfer and lien documents and for disbursing funds.

(10) "Fire and Casualty Act" means Chapter 25 of this title [§ 31-2501.01 et seq.].

(11) "Foreign title insurer" means any title insurer incorporated or organized under the laws of any other state of the United States or any other jurisdiction of the United States.

(12) "Indemnity" or "indemnity deposit" means funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

(12A) "Individual" means a natural person.

(13) "IRLA" means Chapter 13 of this title [§ 31-1301 et seq.)].

(14) "Net retained liability" means the total liability retained by a title insurer for a single risk, after taking into account any ceded liability and collateral, acceptable to the Commissioner, maintained by the insurer.

(15) "Non-U.S. title insurer" means any title insurer incorporated or organized under the laws of any foreign nation or any province or territory.

(16) "Person" means an individual or business entity.

(17) "Personal property" means stock ownership in a cooperative housing association.

(18) "Qualified financial institution" means an institution that is:

(A) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(B) Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies;

(C) Insured by the appropriate federal entity; and

(D) Qualified under any additional rules established by the Commissioner.

(19) "Referral source" means any person, including an officer, director, or owner of more than 5% or more of the equity or capital of any person engaged in the District in the trade, business, occupation, or profession of:

(A) Buying or selling interests in real property;

(B) Making loans secured by interests in real property; or

(C) Acting as broker, agent, representative, or attorney of a person who

buys or sells any interest in real property or who lends or borrows money with the interest as security.

(20) Repealed.

(21) "Subsidiary" means an affiliate controlled by a person, directly or indirectly, through one or more intermediaries.

(22) "Title insurance business" or "business of title insurance" means:

(A) Issuing as an insurer, or offering to issue as an insurer, a title insurance policy;

(B) Engaging in, or proposing to engage in, any of the following activities when conducted or performed in contemplation of or in conjunction with the issuance of a title insurance policy:

(i) Soliciting or negotiating the issuance of a title insurance policy;

(ii) Guaranteeing, warranting, or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units, and proprietary leases, and for all liens or charges affecting the same;

(iii) Executing title insurance policies;

(iv) Effecting contracts of reinsurance; or

(v) Abstracting, searching, or examining titles;

(C) Guaranteeing, warranting, or insuring searches or examinations of title to real property or any interest in real property;

(D) Guaranteeing or warranting the status of title as to ownership of or liens on real property or personal property by any person other than the principals to the transaction;

(E) Doing, or holding oneself out to do, business substantially equivalent to any of the activities listed in this paragraph in a manner designed to evade the provisions of this chapter; or

(F) Matters insuring the correctness or marketability of title.

(23) "Title insurance commitment" means a preliminary report, commitment, or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and any other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy.

(24) "Title insurance policy" or "policy" means a contract insuring or indemnifying owners of, or other persons lawfully interested in, real or personal property or any interest in real or personal property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:

(A) Defects in, or liens or encumbrances on, the insured title;

(B) Unmarketability of the insured title;

(C) Invalidity, lack of priority, or unenforceability of liens or encumbrances on the stated property;

(D) Lack of legal right of access to the land;

(E) Unenforceability of rights in title to the land and other matters affecting the title to, or the right to the use and enjoyment of, the property; or

(F) Matters insuring the correctness or marketability of title.

(25)(A) "Title insurance producer" or "producer" means a person who is authorized to perform, on behalf of a title insurer, the following acts in

conjunction with the issuance of a title insurance commitment or policy covering real or personal property situated in the District of Columbia:

(i) Determining insurability and issuing title insurance commitments or policies, or both, based upon the performance or review of a search or abstract of title; and

(ii) Soliciting or negotiating title insurance business.

(B) The term "title insurance producer" or "producer" shall not include:

(i) A financial institution (and its employees) that does not solicit, procure, or negotiate title insurance contracts for compensation or conduct title insurance business;

(ii) An employee of an abstracting company;

(iii) A person whose activities in the District are limited to advertising, without the intent to solicit insurance in the District, through communications in printed publications or other forms of electronic mass media; provided, that the person does not sell, solicit, or negotiate insurance that would insure risks of persons residing in or located in, or activities to be performed in, the District;

(iv) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries of the employer; provided, that the employee does not sell, solicit, or negotiate insurance, or receive a commission; or

(v) An employee of a title insurer; provided, that the employee's activities are not focused on transactions in the District of Columbia, his or her primary responsibilities cover multiple states, and his or her involvement in transactions is to coordinate with title insurance producers licensed in the District of Columbia who conduct title insurance business.

(26) "Title insurer" or "insurer" means a company organized under laws of the District of Columbia for the purpose of transacting the business of title insurance and any foreign or non-U.S. title insurer licensed in the District of Columbia to transact the business of title insurance.

(27) "Title plant" means a set of records consisting of documents, maps, surveys, or entries affecting title to real property or any interest in or encumbrance on the property, which have been filed or recorded in the jurisdiction for which the title plant is established or maintained.

(28) "Underwrite" means to accept or reject, or have the authority to accept or reject, risk on behalf of a title insurer.

(Sept. 24, 2010, D.C. Law 18-223, § 2142, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(a), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 repealed (3); added (4A) and (12A); rewrote (16); repealed (20); and substituted "real or personal property" for "residential or personal property" in (25)(A).

Legislative history of Law 20-40. — Law 20-40, the "Saving D.C. Homes from Foreclosure Clarification and Title Insurance Clarification Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-268. The Bill was adopted on first and second readings on June 26, 2013 and July 10, 2013, respectively. Signed by the Mayor on Aug. 20, 2013, it was assigned Act No. 20-156 and transmitted to Congress for its review. D.C. Law 20-40 became effective on Nov. 5, 2013.

§ 31-5031.04. Limitations on powers.

(a) An insurer that transacts any class, type, or kind of business other than title insurance business shall not be eligible for the issuance or renewal of a license to transact the business of title insurance in the District of Columbia and shall not transact title insurance business.

(b) A title insurer shall not engage in the business of guaranteeing payment of the principal of, or the interest on, bonds or mortgages.

(c)(1) Notwithstanding subsection (a) of this section, and to the extent such coverage is lawful within the District, a title insurer may issue closing or settlement protection to a proposed insured upon request if the title insurer issues a preliminary report, binder, or title insurance policy. The closing or settlement protection shall conform to the terms of coverage and form of instrument as required by the Commissioner and may indemnify a proposed insured against loss of settlement funds because of the following acts of a title insurer's named title insurance producer:

(A) Theft of settlement funds in connection with the closing to the extent that the theft relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; and

(B) Failure to comply with the written closing instructions by the proposed insured when agreed to by the title insurance producer, to the extent that they relate to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.

(2) The Commissioner may promulgate by rule pursuant to § 31-5031.23, or approve, a required charge for providing the coverage.

(3) Repealed.

(4) Except as provided under this chapter, a title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

(5) The form of closing protection letter used by a title insurer and rates shall be filed with the Commissioner as provided by § 31-5031.18(b)(3).

(Sept. 24, 2010, D.C. Law 18-223, § 2145, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(b), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40, in (c)(1), deleted "solely" preceding "against loss" and deleted "only" preceding "because of"; and repealed (c)(3).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.09. Liquidation, dissolution, or insolvency.

(a) Except as otherwise provided in this section, the IRLA shall apply to all domestic title insurers subject to this chapter. In applying the provisions of the IRLA, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

(b) Indemnity and escrow funds held by or on behalf of the title insurer shall

not become general assets and shall be administered as secured creditor claims as provided in the IRLA.

(c) Title insurance policies issued by a domestic title insurer that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

(d) The court may set appropriate dates that potential claimants shall file their claims with the liquidator as to a domestic title insurer. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

(e) As of the date of the order of insolvency or liquidation, all premiums paid, due, or to become due under policies of the domestic title insurers shall be fully earned. It shall be the obligation of producers, insureds, or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.

(Sept. 24, 2010, D.C. Law 18-223, § 2150, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(c), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 substituted "producers" for "agents" in (e).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.11. Diversification requirement.

(a) Without the prior written approval of the Commissioner, a domestic title insurer shall not accept:

(1) Additional business from a title insurance producer that is not an affiliated company with the insurer if, when added to other business written through the title insurance producer during the same calendar year, that producer's aggregate premiums written on behalf of the title insurer will exceed 20% of the title insurer's gross premiums written during the prior calendar year, as shown on the title insurer's most recent annual statement on file with the Commissioner; or

(2)(A) Additional direct operations business from a single source if, when added to other direct operations business from the single source during the same calendar year, the aggregate premiums written on the direct operations business of the single source will exceed 20% of the title insurer's gross premiums written during the prior calendar year as shown on the title insurers most recent annual statement on file with the Commissioner.

(B) For purposes of this paragraph, the term "single source" means a person that refers business to the title insurer and any other person that controls, is controlled by, or is under common control with, that person.

(b) In determining whether prior approval may be given, the Commissioner shall consider:

(1) The potential that the acceptance of more business from the title

insurance producer or source may adversely affect the financial solidity of the title insurer;

(2) The availability of competing title agents or additional sources in the territories in which the title insurer accepts risks;

(3) The number of years that the title insurer has been in business;

(4) Reinsurance arrangements mitigating the concentration of business from the producer or source;

(5) The comparative profitability of the producer's or source's book of business;

(6) The degree of oversight of the producer's operations exercised by the title insurer; and

(7) Any other circumstances considered by the Commissioner to be appropriate.

(Sept. 24, 2010, D.C. Law 18-223, § 2152, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(d), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 substituted "producer" for "agent" and substituted "producer's" for "agent's" throughout the section.

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.12. Direct operations and policyholder treatment.

(a) If a title insurance commitment includes an offer to issue an owner's policy covering the resale of owner-occupied property, the title insurance commitment shall be furnished to the purchaser-mortgagor or its representative no later than the time of closing. If the report cannot be delivered prior to or at closing, the title insurer shall document the reasons for the delay. The title insurance commitment furnished to the purchaser-mortgagor shall incorporate the following statement on the 1st page in bold type:

"Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

"It is important to note that this form is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land."

(b)(1) A title insurer issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the owner-occupied property securing the loan, if no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the Commissioner, to the purchaser-mortgagor at the time the title insurance commitment is prepared. The notice shall explain:

(A) A lender's title insurance policy is to be issued protecting the mortgage-lender;

(B) The policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased;

(C) What a title policy insures against and what possible exposures exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's policy; and

(D) The purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages or amount of insurance is not then known.

(2) A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least 3 years after the effective date of the policy.

(Sept. 24, 2010, D.C. Law 18-223, § 2153, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(e), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 deleted "residential" preceding "property" in (a) and (b)(1); substituted "no later than the time of closing" for "as soon as reasonably possible prior to closing" in (a); and substituted "3 years" for "5 years" in (b)(2).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.13. Duties of title insurers utilizing the services of title insurance producers.

(a) The title insurer shall not accept business from a title insurance producer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and, if both parties share responsibility for a particular function, specifies the division of responsibilities.

(b) Repealed.

(c) The title insurer shall, at least annually, conduct an on-site review, or a review conducted electronically that would accomplish the functional equivalent of the same, of the underwriting, claims, and escrow practices of the title insurance producer which shall include a review of the producer's policy blank inventory and processing operations. If the title insurance producer does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title insurance producer.

(d) Within 30 days after executing or terminating a contract with a title insurance producer, the title insurer shall provide written notification of the appointment or termination and the reason for termination to the Commissioner. Notices of appointment of a title insurance producer shall be made on a form promulgated by the Commissioner.

(e) A domestic title insurer shall not appoint to its board of directors an officer, director, employee, controlling shareholder, or any title insurance producer who wrote 1% or more of the title insurer's direct premiums written during the previous calendar year as shown on the title insurer's most recent annual statement on file with the Commissioner. This subsection shall not apply to relationships governed by Chapter 7 of this title [§ 31-701 et seq.].

(f) The title insurer shall maintain an inventory of all policy forms or policy numbers allocated to each title insurance producer.

(g) The title insurer shall have on file proof that the title insurance producer is licensed in the District.

(h) The title insurer shall establish the underwriting guidelines and, if applicable, limitations on title claims settlement authority to be incorporated into contracts with its title insurance producers.

(Sept. 24, 2010, D.C. Law 18-223, § 2154, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(f), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by Law 20-40 repealed (b); and substituted "producer" for "agent" in (e).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.16. Favored producer of title insurer; buyer's right to choose.

(a) A title insurer shall not participate in any transaction in which it knows that a title insurance producer or other person requires, directly or indirectly, or through any trustee, director, officer, producer, employee, or affiliate, as a condition precedent to selling or furnishing any other person a loan, or loan extension, credit, sale, property, contract, lease, or service, that the other person shall place a title insurance policy of any kind with the title insurer or through a particular title insurance producer.

(b) No seller of property shall require, directly or indirectly, that the buyer purchase title insurance from any particular title producer or insurer.

(Sept. 24, 2010, D.C. Law 18-223, § 2157, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(g), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by DC Law 20-40 designated the existing text as (a); substituted "producer" for "agent" throughout (a); and added (b).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.18. Form filing.

(a)(1) The Commissioner may require that all policy forms used by every company covering title risks in the District be filed with the Commissioner. The Commissioner shall have authority to disapprove, within 60 days after the date of the receipt of a filing, the use in the District of any policy form which is inequitable, or does not comply with District law.

(2) If a policy form is not disapproved for use within the 60-day period described in paragraph (1) of this subsection, the Commissioner may not disapprove the form for use unless it does not comply with District law.

(b) Forms covered by this section shall include:

(1) Title insurance policies, including standard form endorsements;

(2) Title insurance commitments issued prior to the issuance of a title insurance policy; and

(3) Closing protection letters.

(c) After notice and opportunity to be heard are given to the insurer or rate service organization which submitted a form for approval, the Commissioner

may withdraw approval of the form on finding that the use of the form is contrary to the legal requirements applicable at the time of withdrawal. The effective date of withdrawal of approval shall not be less than 90 days after notice of withdrawal is given.

(d) An approved policy form or endorsement providing coverage for which no identifiable premium is assessed may be incorporated into every applicable title insurance policy. The insurer shall disclose any additional coverage to the insured. The provisions of this section shall not operate to eliminate any underwriting standard of conditions relating to the approved policy forms or endorsements.

(e) Any term or condition related to an insurance coverage provided by an approved title insurance policy or any exception to the coverage, except those ascertained from a search and examination of records relating to a title or inspection or survey of a property to be insured, shall only be included in the policy after the term, condition, or exception has been filed with the Commissioner and approved.

(Sept. 24, 2010, D.C. Law 18-223, § 2159, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(h), 60 DCR 12304.)

Section references. — This section is referenced in § 31-5031.04.

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 rewrote (a).

Legislative history of Law 20-40. — See note to § 31-5031.01.

§ 31-5031.20. Record retention requirements.

Evidence of the examination of title and determination of insurability for business written by a title insurer or title insurance producer and records relating to escrow and indemnity deposits shall be preserved and retained by the insurer or producer for as long as appropriate to the circumstances but not less than 3 years after the title insurance policy has been issued or 3 years after the escrow or indemnity deposit account has been closed. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section.

(Sept. 24, 2010, D.C. Law 18-223, § 2161, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 5(i), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 substituted "insurer or producer" for "insurer or agent" in the first sentence.

Legislative history of Law 20-40. — See note to § 31-5041.01.

CHAPTER 50B. TITLE INSURANCE PRODUCERS.

Sec.
31-5041.07. Prohibition of rebate and fee splitting.

§ 31-5041.01. Definitions.

For the purpose of this chapter, the term:

(1) "Abstract of title" means a written history, synopsis, or summary of the recorded instruments affecting a title to real property.

(2) "Affiliate" means, with respect to a person, another person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person.

(3) "Aggrieved party" means a lender, title insurer, consumer, or the District of Columbia, who shall have suffered economic harm as a result of matters insured under any fidelity coverage required under this chapter.

(4) "Attorney" means a person who is admitted to practice law in the District of Columbia.

(4A) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(5) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(6) "Escrow" means written instruments, money, or other items deposited by a party with a depository, escrow producer, or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event.

(7) "Escrow Officer" means a person who maintains an escrow or indemnified deposit account.

(8) "Indemnity" or "indemnity deposit" means funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

(8A) "Individual means a natural person.

(9) "Person" means an individual or business entity.

(10) "Personal property" means stock ownership in a cooperative housing association.

(11) "Producer Licensing Act" means Chapter 11A of this title [§ 31-1131.01 et seq.].

(12) "Qualified financial institution" means an institution that is:

(A) Organized or, in the case of a United States branch or agency office of a non-U.S. banking organization, licensed under the laws of the United States, a state, the District of Columbia, or another jurisdiction of the United States and granted authority to operate with fiduciary powers;

(B) Regulated, supervised, and examined by an authority of the United States, a state, the District of Columbia, or another jurisdiction of the United States having regulatory authority over banks and trust companies;

(C) Insured by the appropriate federal entity; and

(D) Qualified under any additional rules established by the Commissioner.

(13) "RESPA" means the Real Estate Settlement Procedures Act of 1974, approved December 22, 1974 (88 Stat. 1724; 12 U.S.C. § 2601 et seq.).

(14) Repealed.

(15) "Subsidiary" means an affiliate controlled by a person, directly or indirectly, through one or more intermediaries.

(16) "Title insurance business" or "business of title insurance" means:

(A) Issuing as an insurer, or offering to issue as an insurer, a title insurance policy;

(B) Engaging in, or proposing to engage in, any of the following activities when conducted or performed in contemplation of or in conjunction with the issuance of a title insurance policy:

(i) Soliciting or negotiating the issuance of a title insurance policy;

(ii) Guaranteeing, warranting, or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units, and proprietary leases, and for all liens or charges affecting the same;

(iii) Executing title insurance policies;

(iv) Effecting contracts of reinsurance; or

(v) Abstracting, searching, or examining titles;

(C) Guaranteeing, warranting; or insuring searches or examinations of title to real property or any interest in real property;

(D) Guaranteeing or warranting the status of title as to ownership of or liens on real property or personal property by any person other than the principals to the transaction;

(E) Doing, or holding oneself out to do, business substantially equivalent to any of the activities listed in this paragraph in a manner designed to evade the provisions of this chapter; or

(F) Matters indemnifying against the incorrectness or marketability of title.

(17) "Title insurance commitment" means a preliminary report or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and any other matters under which the title insurer is willing to issue its title insurance policy.

(18) "Title insurance policy" means a contract insuring or indemnifying owners of, or other persons lawfully interested in, real or personal property or an interest in real or personal property against loss or damage arising from any of the following conditions existing on or before the policy date and not expressly excepted or excluded from coverage:

(A) Defects in, or liens or encumbrances on, the insured title;

(B) Unmarketability of the insured title;

(C) Invalidity, lack of priority, or unenforceability of liens or encumbrances on the property;

(D) Lack of legal right of access to the property; or

(E) Unenforceability of rights in title to the property and other matters affecting the title to, or right to use and enjoyment of, the property.

(19)(A) "Title insurance producer" or "producer" means a person who is authorized to perform, on behalf of a title insurer, the following acts in

conjunction with the issuance of a title insurance commitment or policy covering real or personal property situated in the District of Columbia:

(i) Determining insurability and issuing title insurance commitments or policies, or both, based upon the performance or review of a search or abstract of title; and

(ii) Soliciting or negotiating title insurance business.

(B) The term "title insurance producer" or "producer" shall not include:

(i) A financial institution (and its employees) that does not solicit, procure, or negotiate title insurance contracts for compensation or conduct title insurance business;

(ii) An employee of an abstracting company;

(iii) A person whose activities in the District are limited to advertising, without the intent to solicit insurance in the District, through communications in printed publications or other forms of electronic mass media; provided, that the person does not sell, solicit, or negotiate insurance that would insure risks of persons residing in or located in, or activities to be performed, in the District;

(iv) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries of the employer; provided, that the employee does not sell, solicit, or negotiate insurance, or receive a commission;

(v) An employee of a title insurer; provided, that the employee's activities are not focused on transactions in the District of Columbia, his or her primary responsibilities cover multiple states, and his or her involvement in transactions is to coordinate with title insurance producers licensed in the District of Columbia who conduct title insurance business.

(20) "Title insurer" or "insurer" means a company organized under laws of this state for the purpose of transacting the business of title insurance and any foreign or non-U.S. title insurer licensed in the District to transact the business of title insurance.

(21) "Underwrite" means to accept or reject, or have the authority to accept or reject, risk on behalf of a title insurer.

(Sept. 24, 2010, D.C. Law 18-223, § 2122, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 4(a), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 deleted the subsection (a) designation; added (4A) and (8A); substituted "or business entity" for "partnership, limited liability company, association, cooperative, corporation, trust, or other legal entity" in (9); repealed (14); substituted "indemnifying against the incorrectness" for "insuring the correctness" in (16)(F); and substituted "real or personal property" for "residential or personal property" in (19)(A).

Legislative history of Law 20-40. — Law 20-40, the "Saving D.C. Homes from Foreclosure Clarification and Title Insurance Clarification Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-268. The Bill was adopted on first and second readings on June 26, 2013 and July 10, 2013, respectively. Signed by the Mayor on Aug. 20, 2013, it was assigned Act No. 20-156 and transmitted to Congress for its review. D.C. Law 20-40 became effective on Nov. 5, 2013.

§ 31-5041.02. Licensing requirements.

(a) A person shall not act in the capacity of a title insurance producer and a

title insurer shall not contract with any person to act in the capacity of a title insurance producer with respect to risks located in the District unless the person is licensed as a title insurance producer in the District of Columbia in accordance with this chapter.

(b)(1) A title insurance producer licensed in the District shall:

(A) Disclose on all recorded documents the name of the particular title insurer;

(B) Exclude or eliminate the word "insurer" or "underwriter" or similar term from its agency's name; and

(C) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer reasonably requests to comply with reporting requirements of the Commissioner.

(2) A title insurance producer operating in the District of Columbia licensed in the District of Columbia on January 1, 2011, shall have 180 days after January 1, 2011, to comply with the requirements of this subsection.

(c)(1) The Commissioner shall require the title insurance producer to maintain the coverages listed in paragraph (1A) of this subsection for the benefit of the title insurer in amounts commensurate with the producer's average exposure, under terms and conditions, and from insurers, acceptable to the Commissioner:

(A) Repealed.

(B) Repealed.

(1A) At the time an application for an initial, renewal, or reinstatement of a title insurance producer license is filed, the applicant shall provide satisfactory evidence to the Commissioner of having secured the applicable proof of financial responsibility as herein provided:

(A) Each business entity with a title insurance producer license is required to obtain an Errors and Omissions policy in an amount not less than $500,000 per occurrence or claim;

(B) Each individual with a title insurance producer license is required to obtain Errors and Omissions coverage in an amount not less than $500,000 per occurrence or claim, either through the business entity through which the individual is employed or otherwise covered, or through an individually-issued policy;

(C) Each business entity with a title insurance producer license is required to obtain a surety bond in an amount not less than $200,000 executed by the applicant as principal and by an insurance company as surety or obligor. The Bond shall run to the District of Columbia government as the obligee and benefit the District or any other aggrieved party, including consumer and title insurers;

(D) Each individual with a title insurance producer license is required to obtain surety coverage in an amount not less than $200,000, either through a business entity where the individual is employed or otherwise covered, or through an individually issued bond;

(E) Each business entity with a title insurance producer license is required to obtain a fidelity bond or similar insurance policy in an amount not less than $200,000 that covers all employees and contractors. A sole proprietor

with no employees or a limited liability entity with no employees shall be exempt from this requirement.

(2) The Commissioner may promulgate rules specifying acceptable alternatives to the preceding insurance requirements. The availability of closing or settlement protection shall not be an acceptable alternative to the requirements of this subsection.

(d) If the title insurance producer delegates the title search to a third party, such as an abstract company, the title insurance producer shall exercise the appropriate diligence, in good faith, to determine that the third party is covered by or maintains the errors and omissions coverage required by subsection (c) of this section.

(e) All funds collected pursuant to this section shall be deposited into the Securities and Banking Regulatory Trust Fund established by § 31-107(b-2).

(Sept. 24, 2010, D.C. Law 18-223, § 2123, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 4(b), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 rewrote (b)(1)(A) and (c)(1); and added (c)(1A).

Legislative history of Law 20-40. — See note to § 31-5041.01.

§ 31-5041.05. Policyholder treatment.

(a) Unless otherwise agreed upon in writing, if a title insurance commitment is issued before issuing an owners title insurance policy, the title insurance producer or insurer shall furnish the title insurance commitment no later than the time of closing. The commitment shall be accompanied by the following statement on the 1st page in bold type:

> "Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered. It is important to note that this form is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land."

(b)(1) A title insurance producer or insurer which has been requested to issue a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of an owner-occupied property securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the Commissioner, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain:

(A) A lender's title insurance policy is to be issued protecting the mortgage-lender;

(B) The policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased;

(C) What a title policy insures against and what possible exposures exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's policy; and

(D) The purchaser-mortgagor may obtain an owner's title insurance

policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages or amount of insurance is not then known.

(2) A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least 3 years after the effective date of the policy.

(Sept. 24, 2010, D.C. Law 18-223, § 2126, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 4(c), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment By D.C. Law 20-40 substituted "issued before issuing an owners title insurance policy" for "issued preparatory to issuing an owners title insurance policy covering the sale of owner-occupied residential property of 4 or fewer units" in (a); and substituted "an owner-occupied" for "residential, owner-occupied" in the introductory paragraph of (b)(1).

Legislative history of Law 20-40. — See note to § 31-5041.01.

§ 31-5041.06. Conditions for providing escrow, settlement, closing, and indemnity deposit services.

(a) All funds deposited with the title insurance producer or insurer in connection with an escrow, settlement, closing, or indemnity deposit shall be submitted for collection to or deposited in a fiduciary trust account in accordance with Chapter 24 of Title 42 [§ 42-2401 et seq.], unless otherwise agreed upon in writing, and in accordance with the following requirements:

(1) The funds shall be the property of the person entitled to them under the provisions of the escrow, settlement, indemnity deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, indemnity deposit, or closing in the records of the title insurance producer in a manner that permits the funds to be identified on an individual basis; and

(2) The funds shall be applied only in accordance with the terms of the individual instructions, settlement statement, or agreements under which the funds were accepted.

(b) Funds held in an indemnity deposit account shall be disbursed only pursuant to a written agreement specifying:

(1) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(2) The duties of the title insurance producer with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(3) Any other provisions that the Commissioner may require.

(c) Any interest received on funds deposited in connection with any escrow, settlement, indemnity deposit, or closing shall be paid, net of administrative costs, to the depositing party, unless the depositor's written instructions for the funds, a court order, or a governing law provides otherwise.

(d) Disbursements may be made out of an escrow, settlement, or closing account only if deposits in amounts at least equal to the disbursement have first been made directly relating to the transaction disbursed against and if the deposits are in one of the following forms:

(1) Cash;

(2) Wire transfers such that the funds are unconditionally received by the title insurance producer, title insurer, or depository of either;

(3) Checks, drafts, negotiable orders of withdrawal; money orders, and any other item that has been finally paid before any disbursements; provided, that a title insurance producer may accept a check in an amount not to exceed $3,000 that has not been finally paid before any disbursements;

(4) A depository check, including a certified check, governed by the provisions of the Expedited Funds Availability Act, approved August 10, 1987 (101 Stat. 635; 12 U.S.C. § 4001 et seq.); or

(5) Credit transfers through the Automated Clearing House which have been deemed available by the depository institution receiving the credit transfers and conform to the operating rules set forth by the National Automated Clearing House Association.

(e) This chapter shall not prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction that does not relate to real or personal property; provided, that all parties consent to the transaction in writing.

(f) A title insurance producer who maintains or operates fiduciary trust accounts in connection with providing escrow, closing settlement services shall have an annual audit made of its escrow, settlement, closing, and indemnity deposit accounts, conducted by an accountant at its expense. Alternatively, any title insurer, at its expense, may conduct, or cause to be conducted, an annual audit of the escrow, settlement, closing, and security deposit accounts of the title insurance producer, subject to the rules by the Commissioner as hereinafter set forth. The Commissioner may promulgate rules setting forth the minimum threshold level at which an audit would be required, the standards of audit, and the forms of audit report required. Title insurance producers who are attorneys licensed in any state or the District of Columbia, who are not exclusively in the business of title insurance, and who issue title insurance policies as part of their legal representation of clients shall be exempt from the requirements of this subsection; provided, that the title insurer may, at its expense, conduct, or cause to be conducted, an annual review or audit of the escrow, settlement, closing, and indemnity deposit accounts of the attorney. The Commissioner may also require the title insurance producer or escrow agent to provide a copy of its audit report to the Commissioner.

(g) If the title insurance producer is appointed by 2 or more title insurers and maintains fiduciary trust accounts in connection with providing escrow, closing settlement services, the title insurance producer shall allow each title insurer reasonable access to the accounts and any or all of the supporting account information to ascertain the safety and security of the funds held by the title insurance producer.

(h) The Commissioner may prescribe standard disclosures that must be included in all agreements for escrow, settlement, closing, or indemnity deposits.

(Sept. 24, 2010, D.C. Law 18-223, § 2127, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 4(d), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40 substituted "real or personal property" for "residential property" in (e); and in (f) substituted "at its expense" for "on a calendar year basis at its expense within 90 days after the close of the previous calendar year" and deleted the former third sentence, which read "By April 30th of each year, the title insurance producer shall provide a copy of the audit report to each title insurer which it represents or for which it was an appointed producer with the Company."

Legislative history of Law 20-40. — See note to § 31-5041.01.

§ 31-5041.07. Prohibition of rebate and fee splitting.

(a) In a real or personal property transaction, a title insurance producer, a title insurer, or any employee or representative of a title insurance producer or a title insurer, shall not pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any valuable consideration or inducement, whether or not specified or provided for in the policy, except to the extent provided for in an applicable filing with the Commissioner as provided by law.

(b) In a real or personal property transaction, an insured named in a policy, or any employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of premium, or any special favor, advantage, valuable consideration, or inducement, as specified in subsection (a) of this section.

(c) This section shall not prohibit:

(1) The payment of commissions or other compensation to domestic or foreign licensed title insurance producers or title insurer employees; or

(2) Any insurer from allowing or returning to its participating policyholders, members, or subscribers dividends, savings, or unabsorbed premium deposits.

(Sept. 24, 2010, D.C. Law 18-223, § 2128, 57 DCR 6242; Nov. 5, 2013, D.C. Law 20-40, § 4(e), 60 DCR 12304.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-40, in (a), substituted "real or personal property transaction, a title insurance producer, a title insurer" for "residential property transaction, a title insurer" and substituted "representative of a title insurance producer or a title insurance producer or a title insurer" for "representative of a title insurer"; and substituted "real or personal property" for "residential property" in (b).

Legislative history of Law 20-40. — See note to § 31-5041.01.

CHAPTER 50C. PORTABLE ELECTRONICS INSURANCE.

§ 31-5051.01. Definitions.

For purposes of this chapter, the term:

(1) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(2) "Customer" means a person who purchases portable electronics or services.

(3) "District" means the District of Columbia.

(4) "Enrolled customer" means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

(5) "Location" means any physical location in the District or any website, call center site, or similar location directed to residents of the District.

(6) "Portable electronics" means electronic devices that are portable in nature, their accessories and services related to the use of the device.

(7)(A) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics, which may provide coverage for portable electronics against any one or more of the following causes of loss:

(i) Loss;

(ii) Theft;

(iii) Inoperability due to mechanical failure;

(iv) Malfunction; or

(v) Damage or other similar causes of loss.

(B) The term "portable electronics insurance" does not include:

(i) A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling, power surges, or normal wear and tear;

(ii) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or

(iii) A homeowner's, renter's, private passenger automobile, commercial, multi-peril, or similar policy.

(8) "Portable electronics transaction" means:

(A) The sale or lease of portable electronics by a vendor to a customer; or

(B) The sale of a service related to the use of portable electronics by a vendor to a customer.

(9) "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program.

(10) "Vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly.

Legislative history of Law 19-306. — Law 19-306, the "Portable Electronics Insurance Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-986. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 5, 2013, it was assigned Act No. 19-673 and transmitted to Congress for its review. D.C. Law 19-306 became effective on May 1, 2013.

§ 31-5051.02. License requirements; training; sale of plans.

(a) A vendor is required to hold a limited-lines license to sell or offer coverage under a policy of portable electronics insurance.

(b)(1) A limited-lines license issued under this section shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions and such employee or authorized representative shall not be subject to licensure as an insurance producer; provided, that the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the training program, including development of a training program, for employees and authorized representatives of the vendors.

(2)(A) The training required by this subsection shall comply with the following requirements:

(i) The training shall be provided to employees and authorized representatives of vendors who are directly engaged in the activity of selling or offering portable electronics insurance;

(ii) The training may be provided in electronic form; provided, that, if conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity; and

(iii) Each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under subsection (d) of this section.

(B) The training provided pursuant to this subsection shall not be subject to the prior approval requirement of § 31-1131.05a(b).

(c) No employee or authorized representative of a vendor of portable electronics shall advertise, represent, or otherwise hold himself or herself out as a non-limited lines licensed insurance producer.

(d) At every location where portable electronics insurance is offered to customers, brochures or other written materials must be made available to a prospective customer that:

(1) Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(2) State that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(3) Summarize the material terms of the insurance coverage, including:

(A) The identity of the insurer;

(B) The identity of the supervising entity;

(C) The amount of any applicable deductible and how it is to be paid;

(D) Benefits of the coverage; and

(E) Key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or non-original manufacturer parts or equipment;

(4) Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(5) State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

(e) Notwithstanding any other provision of law, employees or authorized representatives of a vendor of portable electronics shall not be compensated based primarily on the number of customers enrolled for portable electronics insurance coverage but may receive compensation for activities under the limited-lines license that is incidental to their overall compensation.

(f) The supervising entity appointed to supervise a vendor's portable electronics insurance program shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in the District. Upon request by the Commissioner and with 10 days notice to the supervising entity, the registry shall be open to inspection and examination by the Commissioner during regular business hours of the supervising entity.

(g) Applications for licensure under this section shall be made by a vendor in accordance with § 31-1131.06 for residents of the District and § 31-1131.08 for non-residents. Information regarding a vendor's officers, directors, or shareholders submitted in connection with a vendor's application for licensure shall be limited to an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this section; provided, that if the vendor derives more than 50% of its revenue from the sale of portable electronics insurance, the information shall be provided for all officers, directors, and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under the federal securities law.

(May 1, 2013, D.C. Law 19-306, § 102, 60 DCR 2746.)

Legislative history of Law 19-306. — See note to § 31-5051.01.

§ 31-5051.03. Billing and collection of premiums.

(a) Charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the

enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services.

(b) Vendors billing and collecting charges for portable electronics insurance coverage shall not be required to maintain funds collected in a segregated account; provided, that the vendor is authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.

(c) Vendors may receive compensation for billing and collection services.

(May 1, 2013, D.C. Law 19-306, § 103, 60 DCR 2746.)

Legislative history of Law 19-306. — See note to § 31-5051.01.

§ 31-5051.04. Termination and modification of coverage.

(a) Notwithstanding any other provision of law:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least 30 days notice.

(2) If the insurer changes the terms and conditions, then the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes.

(3) Notwithstanding paragraph (1) of this subsection, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon 15 days notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy.

(4) Notwithstanding paragraph (1) of this subsection, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

(A) For nonpayment of premium;

(B) If the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(C) If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within 30 days after exhaustion of the limit; provided, that if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

(5) Where a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the

policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled customer at least 30 days before the termination.

(b)(1) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this subsection.

(2) If the notice or correspondence is mailed, it shall be sent to the vendor of portable electronics at the vendor's mailing address specified for such purpose and to its affected enrolled customer's last known mailing address on file with the insurer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

(3) If the notice or correspondence is sent by electronic means, it shall be sent to the vendor of portable electronics at the vendor's electronic mail address specified for such purpose and to its affected enrolled customer's last known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronics, as the case may be. For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer or vendor of portable electronics, as the case may be, shall be deemed consent to receive notices and correspondence by electronic means as long as disclosure to that effect is provided to the customer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof that the notice or correspondence was sent.

(c) Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.

(May 1, 2013, D.C. Law 19-306, § 104, 60 DCR 2746.)

Legislative history of Law 19-306. — See note to § 31-5051.01.

§ 31-5051.05. Penalties.

(a) A vendor shall report any violation of this chapter to the Commissioner within 30 days of discovery of the violation by the vendor.

(b) If a vendor of portable electronics or its employee or authorized representative violates any provision of this chapter, the Commissioner may:

(1) After notice and hearing, impose fines not to exceed $2,500 per violation or a $10,000 maximum fine in the aggregate for such conduct; and

(2) After notice and hearing, impose other penalties that the Commissioner considers necessary and reasonable to carry out the purpose of this chapter, including:

(A) Suspending the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred; and

(B) Suspending or revoking the ability of individual employees or authorized representatives to act under the limited lines license.

(May 1, 2013, D.C. Law 19-306, § 105, 60 DCR 2746.)

Legislative history of Law 19-306. — See note to § 31-5051.01.

§ 31-5051.06. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

(May 1, 2013, D.C. Law 19-306, § 106, 60 DCR 2746.)

Legislative history of Law 19-306. — See note to § 31-5051.01.